Supreme Court, U. S.
FILED
NOV 18 1976
MICHAEL RODAK, JR., CLERK

APPENDIX

VOLUME 2

IN THE

Supreme Court of the United States

October Term, 1976.
Nos. 75-1870, 75-1872.

No. 75-1870.

E. I. du PONT DE NEMOURS AND COMPANY and CHRISTIANA SECURITIES COMPANY,
Petitioners,

v.

RICHARD J. COLLINS, JR., LEWIS C. MURTAUGH,
Respondents.

No. 75-1872.

SECURITIES AND EXCHANGE COMMISSION,
Petitioner,

v.

RICHARD J. COLLINS, JR., LEWIS C. MURTAUGH,
Respondents.

On Writs of Certiorari to the United States Court of Appeals for the Eighth Circuit.

PETITION FOR CERTIORARI IN NO. 75-1870 FILED JUNE 25, 1976.

PETITION FOR CERTIORARI IN NO. 75-1872 FILED JUNE 26, 1976.

CERTIORARI GRANTED OCTOBER 4, 1976.

International Printing Co., 711 So. 50th St., Phila., Pa. 19143 — Tel. (215) 727-8711

TABLE OF CONTENTS OF APPENDIX.

Vol. 1
Page

Relevant Docket Entries (Eighth Circuit No. 75-1100) A1

Relevant Docket Entries (Eighth Circuit No. 75-1262) A4

Relevant Docket Entries (Eighth Circuit No. 75-1263) A7

Relevant Docket Entries (Securities and Exchange Commission) A10

Notice of Filing of Application, Investment Company Act Release No. 7402 (October 3, 1972) A24

Notice of and Order for Hearing on Application, Investment Company Act Release No. 7563 (December 13, 1972) .. A34

Findings and Opinion of the Securities and Exchange Commission, Investment Company Act Release No. 8016 (December 13, 1974) A38

Order Granting Application, Investment Company Act Release No. 8615 (December 13, 1974) A75

Memorandum Opinion and Order Denying Rehearing, Investment Company Act Release No. 8692 (February 27, 1975) A77

Joint Application, Dated July 19, 1972 ..... A81

Amendment No. 6 to Joint Application, Dated October 27, 1972 ..... A111

Application of Lewis C. Murtaugh for Leave to Intervene as a Party Pursuant to Rule 9(e) A118

Exhibit A:

Request for a Hearing and Advice (October 25, 1972) A129

Supplement to Filed Request (October 31, 1972) .. A155

Supplement to Filed Request (November 14, 1972) A162

Exhibit B A167

Exhibit C A171

TABLE OF CONTENTS OF APPENDIX (Continued).

Vol. 1
Page

Motion by Lewis C. Murtaugh to Modify Order Fixing Pre-Hearing Procedures A172

Reply of Applicants to Motion to Modify Order Fixing Pre-Hearing Procedures A177

Rejoinder to Reply to Motion to Modify Order A180

Excerpts From Murtaugh Brief A184

Excerpts From Brief of Christiana Securities Company A194

Applicants' Joint Proposed Findings and Conclusions A198

Supplemental Petition of Lewis C. Murtaugh for Rehearing Including a Motion to Adduce Additional Evidence A204

Excerpts From Transcript of SEC Proceedings–

Colloquy A227

Charles C. Townsend, Jr.–

Direct Examination A228

Cross-Examination A285

Re-Direct Examination A306

Re-Cross-Examination A315

Edward Townsend–

Direct Examination A316

Cross-Examination A364

Re-Direct Examination A373

C. Edward Midgley–

Direct Examination A375

Cross-Examination A397

Raymond J. Harter–

Direct Examination A406

Cross-Examination A416

C. Edward Midgley (Recalled)–

Cross-Examination (Continued) A417

TABLE OF CONTENTS OF APPENDIX (Continued).

Vol. 1
Page

L. E. Grimes–

Direct Examination A420

Cross-Examination A438

Re-Direct Examination A447

Irving S. Shapiro–

Direct Examination A448

Cross-Examination A480

Vol. 2
Page

Cross-Examination (Continued) A513

Edward B. du Pont–

Direct Examination A554

Cross-Examination A566

Charles B. McCoy–

Direct Examination A569

Cross-Examination A596

Re-Direct Examination A608

Colloquy A609

Applicants' Joint Exhibit No. 1A–Morgan Stanley & Co. Letter Dated July 7, 1972 ..... A617

Applicants' Joint Exhibit No. 1B, Exhibit 2, p. 6–Excerpt From Christiana Securities Company–Memorandum of Fact A633

Applicants' Joint Exhibit No. 1B, Exhibit 9–Christiana Securities Company, Net Asset Value Per Share and Discount of Market Price (Based on Mean) (1) A634

Applicants' Joint Exhibit No. 1C–Morgan Stanley & Co. Letter, Dated July 7, 1972 ..... A636

Applicants' Joint Exhibit No. 2–Letter, Dated April 20, 1972, From Irénée du Pont to Mr. McCoy Inquiring as to Interest in a Merger A638

Applicants' Joint Exhibit No. 3–Morgan Stanley & Co. Engagement Letter, Dated June 6, 1972 ..... A640

TABLE OF CONTENTS OF APPENDIX (Continued).

Vol. 2
Page

Applicants' Joint Exhibit No. 4—Merger Agreement (Conformed Copy, as Executed in December, 1972) A642

Applicants' Joint Exhibit No. 5—Summary of Terms of Comparable Mergers A687

Du Pont Exhibit No. 1—First Boston Corp. Engagement Letter, Dated June 6, 1972 ..... A689

Du Pont Exhibit No. 3—Excerpts From Brief for the United States Supreme Court in the *General Motors* Relief Proceedings (October Term, 1960—No. 55) A691

Du Pont Exhibit No. 4—First Boston Corp. Opinion Letter, Dated July 6, 1972 (Exclusive of Exhibits) A696

Du Pont Exhibit No. 4—First Boston Corp. Opinion Letter, Dated July 6, 1972 (Schedule 3) A700

Du Pont Exhibit No. 4A—First Boston Corp. Letter (Final Opinion), Dated July 7, 1972 ..... A705

Du Pont Exhibit No. 5, pp. 1-20—Excerpts From Preliminary Proxy Statement A707

Du Pont Exhibit No. 5, Exhibit A—Agreement and Plan of Reorganization Between E. I. duPont de Nemours and Company and Christiana Securities Company A754

Du Pont Exhibit No. 5, Exhibit C, pp. 15-19—Excerpts From Index to Financial Statements A793

Du Pont Exhibit No. 5, Exhibit E—Excerpts From Data Concerning Directors A800

Christiana Exhibit No. 1—Kidder, Peabody & Company Engagement Letter, Dated June 6, 1972 ..... A808

Christiana Exhibit No. 2—Kidder, Peabody Report, Dated July 7, 1972 (Exclusive of Exhibits) A810

Christiana Exhibit No. 2, Exhibit 2—Kidder, Peabody Report Assumptions A838

TABLE OF CONTENTS OF APPENDIX (Continued).

Vol. 2
Page

Christiana Exhibit No. 2, Exhibit 4—*Advantages and Disadvantages (Assuming Net Asset Value Exchange)* A840

Christiana Exhibit No. 3—Kidder, Peabody Opinion Letter, Dated July 17, 1972 ..... A842

Christiana Exhibit No. 4—Table Captioned "Federal Income Tax Basis to Present Holders of Christiana Securities Company Common Stock" A845

Division Exhibit No. 1—Letter From Du Pont to Morgan Stanley, Dated June 6, 1972; Covington & Burling Memorandum Captioned "Factors to Be Considered," Dated June 6, 1972; Memorandum Captioned "Effect of Compliance With Investment Company Act of 1940 on Du Pont", Dated June 13, 1972 ..... A846

Division Exhibit No. 2A—Letter From Dechert Price & Rhoads to Christiana Special Committee of the Board Captioned "Section 333 Liquidation," Dated June 20, 1972 ..... A861

Division Exhibit No. 2B—Letter From Dechert Price & Rhoads to C. Townsend, Jr. of Morgan Stanley, Dated July 8, 1972, With Attachment Captioned "Section 333 Liquidation," Dated July 5, 1972 ..... A877

Division Exhibit No. 3—Draft, Dated June 27, 1972, of Morgan Stanley Report, pp. 9, 21-22 ..... A880

Division Exhibit No. 9—Document (Undated) Captioned "List of Documents for Financial Advisor" A884

Division Exhibit No. 10—Memorandum, Dated June 22, 1972, Captioned "Some Prefatory Remarks for Meeting in New York at FDC on June 23, 1972" A886

TABLE OF CONTENTS OF APPENDIX (Continued).

Vol. 2
Page

Division Exhibit No. 12—Draft Kidder, Peabody Report, Dated June 30, 1972, pp. 10-11 ..... A889

Murtaugh Exhibit No. 2—Excerpts From Testimony on Second Remand From the United States Supreme Court, *United States v. Du Pont*, 177 F. Supp. 1 (N. D. Ill. 1959), as Found in Printed Record in *United States v. Du Pont*, 366 U. S. 316 (1961), pp. 1053-57, 1506-07, 1516-17, 1558-62, 1739, 2095 ..... A891

Murtaugh Exhibit No. 4—Memorandum to C. E. Welch, Du Pont Legal Department, From Du Pont Treasurer's Department, Dated May 12, 1972 ..... A913

Murtaugh Exhibit No. 5 (Exclusive of Exhibits)—Memorandum, Dated July 10, 1972, to Du Pont Executive Committee From Du Pont Special Committee of the Board A929

Murtaugh Exhibit No. 8—Covington & Burling Memorandum Captioned "SEC Judicial Precedents Respecting the Proposed Du Pont-Christiana Merger," Dated June 6, 1972 (Exclusive of Attachment A) A949

Murtaugh Exhibit No. 9, pp. 11-17—Excerpts From Final Judgment, Dated March 1, 1962 as Amended April 26, 1962, General Motors Divestiture Case A951

Murtaugh Exhibit No. 15—Draft Agreement, Dated December 15, 1972, as to Registration Rights A958

Collins Exhibit No. 1—Letter, Dated October 4, 1972, to Du Pont Stockholders re SEC Notice A974

Collins Exhibit No. 1A—Affidavit of Mr. Harter, Manufacturers Hanover Trust Co. A976

Mr. Richard Collins' Letter to the SEC, Dated October 26, 1972 ..... A978

TABLE OF CONTENTS OF APPENDIX (Continued).

Vol. 2
Page

Order of the United States Court of Appeals for the Eighth Circuit, Dated October 9, 1975 ..... A981

Report to the United States Court of Appeals for the Eighth Circuit by Roger B. Upson on Questions Asked by the Court, Dated December 9, 1975 ..... A983

Opinions of the Court Below A1028

Judgment of the Court Below A1028

Order Allowing Certiorari (No. 75-1870) A1029

Order Allowing Certiorari (No. 75-1872) A1030

[773]

Q. Yes. And was there arm's-length bargaining on that question?

A. I think there was, and if I didn't think so I wouldn't have recommended to our board that they agree to the terms.

Q. Let's get to the concept of the control element. That seems to have an ambiguous aspect too. That A, Christiana doesn't control it, and B, that we better take care that we get the control away from them for the benefit of all concerned.

A. I think that is a loose characterization of what I have been saying at least. If you are suggesting that Christiana controlled the negotiations and was on both sides of the table, I think there is no basis in fact for that suggestion.

Q. I am suggesting that either we have a bad situation as it stands now or a potentially bad situation.

A. I said on Friday that I thought there was a great value to the du Pont Company in having a dispersal of the 28 percent block of shares in Christiana's hands given the future that I foresaw.

Q. I think you said if you let your imagination run you could foresee some possibilities that might be injurious in the future, isn't that true?

A. I saw great success in the past and less prospect

[774]

for that kind of a record in the future simply because we couldn't foresee people of the quality of Pierre du Pont, Irénée du Pont coming along in the management of the du Pont Company and playing a role. And our concern was simply that we would wind up with a situation in which a block of 28 percent of our stock was in the hands

of people who had no experience with the chemical industry, no background in the du Pont Company, and who might have ventures of their own that would interfere with the best interests of the du Pont Company. And it was in that context that I said if you let your imagination run you can conceive of a number of ways of getting into difficulty. And I suggest that a prudent management ought to take cognizance of that kind of a risk no matter how remote it might be and do what it can to avoid it.

Q. Do you think that the dispersal—that is your word, isn't it?

A. Yes.

Q. Of 13½ million shares of du Pont will effectively eliminate the du Pont family from substantial sharing in control of du Pont?

A. I don't think I said anything like that.

Q. I didn't say you did. I said do you think——

A. Oh, excuse me. I misunderstood your question. What I am saying is that if there is a dispersal

[775]

of that block of shares, in large part the shares would be distributed to members of the du Pont family who expect to hold the shares. To that extent they will continue to have a relationship with the du Pont Company and will be valued stockholders and hopefully some will want to come into the business from time to time. Nevertheless, instead of having one block of 28 percent of the shares which can be used as a block if it is so desired, each of the individual members of the du Pont family will have their own holdings and that will be it.

Q. You joined the board in 1970, that is correct?

A. That is correct.

Q. Just for the record, when was Mr. McCoy—when was he elected president, or chairman?

A. I would guess about—chairman, did you say?

Q. No, chairman was just last year, wasn't it?

A. Yes. President I would guess about 1967 or thereabouts.

Q. I see.

Now, the effect of this transaction if it carried through will be to make management more in control of its own house than it is. Let's assume it is——

A. I don't think so. I think management is in control of its own house now. What I have been talking about are future problems that could arise given a block of stock of

[776]

this size. In my view, Mr. McCoy is running the du Pont Company as the president with free discretion today.

Q. And he has the cooperation of Christiana Securities Company in that regard, does he?

A. I wouldn't put it that way. I think he has the cooperation of numerous members of the du Pont family who serve on various committees in the du Pont organization, such as our finance committee, and people who also happen to have Christiana stock.

Q. And they have that Christiana stock in much greater numbers than their du Pont stock in general, don't they?

A. Some of them do. But they still regard themselves as holding du Pont stock.

Q. Now, you are a lawyer. Can you see the difference between holding du Pont stock and Christiana stock?

A. I see the formal difference, certainly.

Q. Would you say it is fair to say that they are essentially the same, du Pont and Christiana stock?

A. Well, you are toying with me, Mr. Murtaugh. The underlying assets are comparable.

Q. And these underlying assets are owned by the corporation, aren't they?

A. That is correct.

Judge Ullman: Do you have much more, Mr. Murtaugh?

Mr. Murtaugh: What's that?

[777]

Judge Ullman: Do you have much more.

Mr. Murtaugh: I really do believe I do, Your Honor. I haven't started hardly. But I will attempt to expedite it.

By Mr. Murtaugh:

Q. Calling your attention to the General Motors divestiture case, you gave—while I don't agree with some of your characterizations, I am satisfied that you have defined what the issue raised by—I mean the proposal was based on the first remand accurately. You said you were present during that whole trial, is that correct?

A. Yes, I was.

Q. Now, calling your attention to page 1559 in Murtaugh Exhibit No. 2.

A. Can you tell me more than that so I can find it?

Q. Yes. It is the transcript hearing, page 1559 of the transcript. Maybe you don't have it.

A. I have it. I am with you.

Q. I really mean 1558, the matter starts on 58.

You see there that Mr.--you knew Mr. Emerson, I presume.

A. Yes, I did.

Q. He was a responsible principal in Morgan Stanley and Company, is that right?

A. That is correct.

[778]

Q. And he was a witness for du Pont in this matter, wasn't he?

A. That is correct.

Q. And he was asked to make a different assumption than the Government's proposal which you defined. I would like to make a different assumption now. I would like you to make the assumption——

Judge Ullman: Are you reading, sir?

Mr. Murtaugh: The last question on the page. I would like you to make the assumption that legislation is passed which would permit a tax-free distribution of General Motors by du Pont which would then require the recipient to spread or apportion his tax base over the cost of the shares of du Pont he retains and shares of General Motors he receives. I would like you to assume that under such legislation there is a single tax-free distribution by du Pont of a whole block of 63 million shares. Secondly I would like to have you assume that there is a court order entered at the request of the Government requiring Christiana-Delaware and stockholders of Delaware to hand their stock over to a trustee and requiring the trustee to make ten annual equal payments of the stock and that there will take place other sales of General Motors stock in that period for whatever reason that you think such sales would take place. I would like first to ask you if under such an order

[779]

you think there would be sales of the stock received by du Pont's stockholders other than Christiana-Delaware and the stockholders of Delaware. Answer,

yes, there would be. From what source do you get this opinion? Well, 43 million approximate shares of General Motors will be divided among the du Pont stockholders proportionately at one time. The stockholders of du Pont bought du Pont because they like du Pont and some of them—I feel they had all the General Motors they wanted. Some of them might not like General Motors. For a variety of reasons even though there is no tax impact there would be some selling of General Motors in addition to any impact. Question, I don't want to be mysterious. You understand my hypothetical question is directed to legislation such as the Frear bill which has been introduced in Congress.

Judge Ullman: End quote?

Mr. Murtaugh: That is a quote, yes.

Judge Ullman: You have ended the quote, have you?

Mr. Murtaugh: Yes, I have ended the quote.

By Mr. Murtaugh:

Q. Now, Mr. Emerson is answering a question as to the effect on the market value of General Motors of carrying out a decree where there would be this forced sale of 2 million shares a year for 10 years, but there would be tax-free distribution both to Christiana and to the du Pont

[780]

shareholders. You grasp that.

A. Yes.

Q. And he says now did you form an opinion of the effect on the market value of carrying out such a decree

under legislation? Yes. Initially it would be in the area of 15 percent.

Do you remember that, or you read it and see it?

A. I see it in the transcript. I certainly don't quarrel with the transcript.

Q. Yes, right.

Now——

Mr. Gribbon: Your Honor. I don't see any purpose in reading this into the transcript again. It is already in evidence.

Mr. Murtaugh: I am asking questions.

Mr. Gribbon: Well, you can ask the question without reading it again.

Mr. Murtaugh: Yes, sure.

By Mr. Murtaugh:

Q. So that there was evidence presented in the General Motors case on the effect of the tax-free transaction. Is that correct?

A. There was a question asked that involved an assumption of a tax-free transaction, that is right.

Q. Now, that question was asked again at 2095 in the

[781]

transcript of Mr. Lenz, one of the principals of Merrill Lynch.

You see roughly the same type of answer.

A. That is right. On a premise that 63 million shares would move out on a one-shot basis.

Q. But that Christiana would have to sell over a ten-year period?

A. That is right.

Q. Now, do you recall that in the preceding year to this hearing, probably '57 or '58, the volume of General

Motors shares on the New York Stock Exchange was roughly about 8 million shares?

A. No, I don't, sir.

Q. You don't. You do know, do you, that General Motors shares was traded at other exchanges besides the New York Stock Exchange?

A. I would assume so, certainly.

Q. And maybe some over-the-counter trading too.

A. I don't know.

Q. The relation of—if the 2 million shares of General Motors which was to be sold each year constituted about two and a half months of volume of total sales of General Motors, do you think that would have an adverse effect on the market if adroitly handled?

A. You are talking now about the General Motors

[782]

situation?

Q. Yes.

A. The testimony at the trial, if I can summarize it quickly—the testimony we presented in substance said that given an overhang on the market for ten years, forced sales, forced distributions, there would be a continuing impact on the market. The Government testimony was to the contrary.

Q. Now, you testified last Friday that as far as you knew there just weren't going to be any of these du Pont people selling unless estate requirements came in to intervene or some such thing. Isn't that the substance of your testimony?

A. I think that is right. That we knew of no facts, and we had checked, to suggest that the du Pont family wanted to liquidate its holdings in the du Pont Company.

Q. Well, if they wanted to diversify even 25 percent, would you think that was a foolish way to handle their affairs? Or a disloyal way?

A. I certainly do, but they wouldn't ask me.

Q. Do you think there would be some disloyalty in that?

A. Well, you say that in jest, but let me say to you that the members of the du Pont family have a deep emotional attachment to the du Pont Company that traces back more than 170 years. So that when they look at du Pont

[783]

and du Pont stock, they look at more than dollars and cents.

Q. Well, now, some of them are liable to run across advisors that advise them to diversify, aren't they?

A. Some are even liable to make mistakes and get into financial trouble.

Q. Now, the next—if it were a fact that as many as a million shares of du Pont were brought on the market in the next six months, would you feel that you had been mistaken in your estimate of the market activity? I mean after the merger?

A. I would be surprised, because I would expect that if there were intentions to bring a million shares to market, those intentions would be disclosed and would be in the proxy material.

Q. Suppose that you believed that that type of selling would occur. Would you just call off the merger?

A. But I don't believe it.

Q. I am just asking you.

A. I can't really put myself in the frame of mind to consider alternatives on something that doesn't appeal to me as a realistic fact.

Judge Ullman: We will be at recess for ten minutes.

(Whereupon, from 11:20 to 11:30 a.m., a recess was taken.)

[784]

Judge Ullman: On the record.

Please proceed, Mr. Murtaugh.

By Mr. Murtaugh:

Q. You mentioned the word "overhang" in connection with a description of the General Motors divestiture. The overhang is a depressant—the knowledge that stock is coming on the market is more or less a depressant if it is concrete enough. Is that your——

A. The knowledge that stock must come on the market, which was the General Motors divestiture situation—you had a court order commanding that it happen. Everybody in the financial community knew that it was going to happen, and it was going to happen for ten years.

Q. Now, according to your best information there is not going to be any marked increase in du Pont's shares by reason of this merger. Is that correct?

A. You are talking about shares coming to market?

Q. Yes.

A. So far as I know there are not.

Q. In other words, we are going to have a situation where we have many more shares available for market but they just aren't going to come on the market? Is that correct?

A. That will depend on the individual choices of each of the stockholders. What I am saying is that as of this

[785]

point in time that we know of no facts that the du Pont family wants to liquidate any of its holding in the du Pont Company, and therefore we have no—we see no prospect of major shifts of du Pont stock to the sell side of the market.

Q. You wouldn't—all stock is potentially sellable. It is in the name of—all du Pont shares, I presume, aren't they?

A. I would assume so.

Q. We dealt a lot in potentials here in listening to the application. This is another potential, isn't it?

A. On that basis, Mr. Murtaugh, there are 287 million General Motors shares potentially sellable. I don't think it takes us any place. The question is how many shares are actually going to come to market.

Q. There is no real brake on them coming to market. They have to be considered by the people who analyze the shares, don't they?

A. The only brake there is is the self-interest of the investor. He is not acting under compulsion, and he acts to protect his own self-interest.

Q. And there are more potential sellers than there are buyers in this context now, aren't there?

A. I don't know that at all.

Q. At the present price, do you think the present price balances the supply and demand situation of shares

[786]

of du Pont?

A. In recent months the price of du Pont has been moving up. I would assume that signifies that there are more buyers than sellers.

Q. But they are finding a level of price——

A. Everyday is at a different level, that's right.

Q. And the fact that the du Pont people for the time being forbear to issue substantial quantities of du Pont stock is no reason why analysts shouldn't take that into account as an overhang at least for average increased selling?

A. You are playing on a word. By my definition of overhang, which I think is the definition of the financial community, shares in the hands of owners of the stock with no compulsion to come to market is not an overhang.

Q. No matter how much they are increased?

A. I think that's right. Otherwise I think companies would never split their stock.

Q. Suppose that 72 percent of du Pont shares were owned by Christiana and the other 28 percent were on the market. Would you have a different point of view?

A. I would certainly want some financial guidance with that kind of a picture.

Q. Even though the people avow they are going to continue their continuity of interest?

A. All I am saying is that that is so different a

[787]

picture than the one I know that I would go to the experts and get their best advice.

Q. Do you know of a single case in which fourteen —13,500,000 shares constituting 28 percent and having a value of over $2¼ million—do you have any precedent that shows any market effect or lack of market effect just looking at the marketable shares?

A. I haven't studied that question at all. The question we have asked the financial advisors that they advised us on is whether there is any material injury to the market value of du Pont that is likely to come from this

exchange proposal, and the advice we got was that there is not.

Q. The usual way they say that the addition of a substantial number of shares is digestible either by secondary offering or other means is that there will be no permanent or lasting effect. That is a phrase that you have heard often, haven't you?

A. Yes, indeed.

Q. But if a substantial seller of du Pont shares from the Christiana block starts selling, would that start a feeling that maybe the situation for diversification has arrived?

A. All I can do is guess, and I don't think it is fruitful for me to guess at this proceeding. I don't have any foresight of that kind.

[788]

Q. Do you think that the addition of shares to—sellable shares to the market does not constitute any sort of an overhang at all?

A. Perhaps we can cut through all the jargon. I think the point of difference between you and me, Mr. Murtaugh, is that you assume if shares go to stockholders, that means they come to market. And everything that I know about financial matters and everything the experts testified to last week said that they have an effect on market when you have a stockholder who is prepared to sell the shares, not when he has got shares tucked away in a safe deposit box. We have been around and around and around on this one point.

Q. Was it considered in this transaction to have agreements not to sell by some of the people holding very large blocks?

A. I don't remember hearing of any agreements not to sell. I remember hearing of Mr. Gemmill's representa-

tions that his clients had no present intentions of taking the shares to market.

Q. Suppose that intention developed next year; would Mr. Gemmill's remark include next year if they change their mind? Or do you think this is just the present intention?

Judge Ullman: I am going to sustain an objection on my own to that question because we have been through this

[789]

so many times that I think it is rather fruitless and pointless to continue the same type of argument which is ensuing at this time.

Mr. Murtaugh: Very well.

I would like to have marked as Murtaugh's Exhibit 7 for identification the complaint in the case of Christiana Securities Company, a Delaware Corporation, Versus United States of America, Civil Action 5831, in the United States District Court for the District of Delaware.

Judge Ullman: This is a complaint which Mr. Murtaugh has described. It has 28 pages plus exhibits. Is there any objection to this being received in evidence? Is that your intent, Mr. Murtaugh, to put it into evidence?

Mr. Murtaugh: Yes, it is, Your Honor.

Judge Ullman: Is there any objection to its being received? There being no objection, the document is received as Murtaugh Exhibit 7 in evidence.

(Murtaugh Exhibit No. 7 was marked for identification and received into evidence.)

By Mr. Murtaugh:

Q. You have read the material, I presume, that I have sent into the Securities and Exchange Commission, request for hearing.

A. I did at the time you sent it in, yes.

[790]

Q. And parts of Murtaugh Exhibit 7 were contained in that material that I sent in. And you read that.

A. I did.

Q. And you were aware of the fact that Morgan Stanley and Merrill Lynch gave supporting opinions and Christiana took the medium and claimed a substantial discount because of the distribution of the General Motors shares to Christiana. Is that correct?

A. I testified to it on Friday, and if you left out the word "substantial" I would agree with your description of what I said. I don't remember the exact number that was used, but it was a discount from the market price.

Q. That was not based on the theory that Christiana had to sell—that valuation was not based on any——

A. Yes, it was. It was based—as I understand the law that was used in making that judgment, it was based on the premise that on the date of receipt of the shares by Christiana it was a willing seller, someone else was a willing buyer, and he would buy the shares for cash.

Q. As a matter of fact, you knew in that case Christiana distributed about 90 percent of the shares it got.

A. That's correct. The court decree required that.

Q. Yes. To its own Christiana shareholders.

A. That's correct.

Q. So this question to which Merrill Lynch and Morgan

[791]

Stanley responded was not—was really to question the value on the date of distribution of the shares of General Motors to Christiana. Not that they had to sell them, but the value of them.

A. That's correct.

Q. Now, when a person inherits stock they face a similar problem, don't they, even though they don't intend to sell?

A. I assume so.

Q. Isn't the essential reason that a discount is given not the temporary one-day effect of putting large blocks of stock on the market, but the fact that in truth you can't realize that amount in any reasonable period of time if you seek to market it?

A. There is not much point in you and I debating this. As I understand the situation, the two investment banking houses were given instructions as to what the law required. They were told to assume there was a willing seller and a willing buyer on a given date and the transaction was going to be in cash and to determine at what price the shares would move. Now——

Q. You don't think that concept has anything to do in a merger?

A. I do not.

Q. In other words, to repeat myself just once more on

[792]

this question that I started with, you believe that you are entitled to assume that there is a value—a real value by a quoted market on a particular day of a very limited number of shares which can govern a $13-billion transfer —13-million-share transfer of shares?

A. I don't think I ever said that.

Q. Well, do you deny it, then?

A. Everything I have said is to the contrary. I have talked about a merger in which du Pont shares come to du Pont plus certain unrelated assets, and du Pont share certificates go back to Christiana stockholders simply less 188,500 shares.

Q. Now, you used a rather colorful word here, fungible. You said this is an exchange of fungible shares.

A. In my view each du Pont share is fungible with another du Pont share.

Q. Even though some of it is owned by Christiana and others owned by individuals?

A. I will state it my way. We have 47-million-plus shares outstanding. Each of those shares is interchangeable with the other. They have the same values in the market place. They have the same values as stockholders by any test you want to measure it.

Q. Well, if a person that owned 13 million shares died and another fellow that owned a hundred shares died they wouldn't have the same value, would they?

[793]

A. Not for estate tax valuation purposes, that's correct. Because the estate tax law says you do the valuation a certain way.

Q. It just says fair market value, doesn't it?

A. I don't see where we are going. I am saying that in my view a merger transaction is totally different from an estate tax valuation problem or the problem that Christiana had on the receipt of its General Motors shares. If you feel differently, so be it.

Q. Now, this figure of $1.20 you refer to as sort of a throwaway to give people something to say that you did something for them. Is that——

A. What I mean to say——

Mr. Gribbon: Where is it referred to in the record as as throwaway?

Mr. Murtaugh: Let's see. 714. He said since people–here I am reading——

Judge Ullman: Referring to a page in the transcript of these proceedings? What page?

Mr. Murtaugh: 714.

Judge Ullman: Quote?

Mr. Murtaugh: Yes. Quote. "But since people–and here I really am thinking of many of our employees who have no grasp of management in this sense, no grasp of the importance of getting these blocks dispersed–these people

[794]

would not understand clearly why this kind of a transaction was being entered into, and so I gather this is customary in these transactions, and we did it here. We negotiated an inducement factor to demonstrate to people that there is a dollar value in addition to this other value I have been taking about."

Now, that means that the people with no discernment will be moved by this thing to say 55 million or forget it?

The Witness: I don't want to limit it to people with no discernment. I would hope all the stockholders would read the proxy material and they would recognize that an improvement of 55 million is a significant number and they would recognize also that the dispersal of the block of shares is an important matter for the future of the du Pont Company.

By Mr. Murtaugh:

Q. And even though a half billion is transferred in additional wealth to the controller or to an important block of shareholders——

A. Let's not argue about it. You have your view of the transaction, I see it differently. There is not much point in our repeating the same thing again.

Q. Very well.

Judge Ullman: You have finished your cross-examination?

[795]

Mr. Murtaugh: Yes.

Judge Ullman: Mr. Maher, do you have any Questions?

Mr. Maher: Yes, sir, I have a couple of questions I would like to ask if I may.

Judge Ullman: Yes.

By Mr. Maher:

Q. I am trying mostly to find out the meaning of some of these things.

You mentioned earlier in your testimony at Friday the du Pont family was not interested in getting out of the du Pont Company, and the question that I have is if so, why are they willing to give up their potential control by selling Christiana–merging Christiana out?

A. I have asked myself the same question, and the analysis that I made in my own mind is one that I tried to recite on Friday. But let me see if I can quickly restate it again.

As I see the situation, the modern du Pont Company starts with Pierre S. du Pont and runs through the various

men who were president of the company that I mentioned on Friday. There were other du Ponts, such as the father of one of the witnesses to follow who are in the management, made a contribution to the company. They built the company. We are now at a point in time in which those who are left are men in advancing years and in my view are trying to make

[796]

plans for the future. I think they are looking at what is apt to be the situation after they are gone. And the fact that they have concluded that this is an appropriate time to merge Christiana I think confirms that kind of an analysis, particularly when you consider that ten years ago they were quite unwilling to do it when it would have meant substantial dollars to them to do it.

Q. You don't think that potential changes in the tax laws have any influence on this, do you? The possibility that this capital gains tax may be withheld later, or the attempt to get the best possible tax analysis of it before this law is changed? This wouldn't influence it?

A. I would expect that they are prudent businessmen, and if they intend to do it at this point in time they would rather do it as a tax-free merger than do it as a taxable transaction. But it seems to me the critical factor is an intention to do this. I think the evidence strongly suggests that avoidance of taxes in itself has not appealed to them as a business reason for their course of conduct.

Q. And you don't think there is an advantage to them in merging at this time that is worth a little more to the company than just this dispersal, dispersing of a potential control at a future time?

I am trying to get your definition of control. You were asked yesterday, or defined control. You mentioned

[797]

potential control and I am trying to get a definition of potential. How positive is this or is this just another speculation? Do you have facts to set this out?

A. What do you mean, Mr. Maher, when you say "this"? That is where I got lost.

Q. Potential—your wording is the big advantage to du Pont is not monetary. The big advantage to du Pont according to you is the dispersal of stock and the reason you make this—or say this is a big advantage is that it will eliminate potential control.

A. Let me tell you what I am thinking of. Maybe this will respond to what you are driving at.

If you look to the future and assume that the key men who are in the management of Christiana at this point in time are gone and their estates have moved on to their children and their grandchildren, you have to ask yourself who will be the management of Christiana, what qualities will they bring to the task. On the one hand, you might conclude that there may be new Pierre S. du Ponts which would come on to the scene, which would be a welcome proposition. On the other hand, one could foresee that there will be fine young people with zero interest in the chemical business, the chemical industry. There may be some who have no financial acumen. There may be some who get into financial difficulty. There may be some who are temped to turn a fast buck and sell their

[798]

shares to someone who wants to get control of du Pont. Let me say it the other way—who wants to get——

Q. I like that way better.

A. I know you do, but I misspoke myself.

Q. They can't sell if they stay in Christiana.

A. Someone who wants to get control of Christiana by getting a significant block of Christiana shares. And you can go on that way. Now, my problem is you ought not to really make business decisions on possibilities rather than probabilities.

Q. Right.

A. But as I sit here today, the picture that I face is one that says the future is uncertain, there is an opportunity to get this block dispersed now. Given certainty versus uncertainty, it is prudent to take the certainty. It may turn out that if—

Q. Yes. At merely no loss to du Pont; no possibility of a little gain in the thing?

A. I think the central consideration opposite our stockholders is that there not be any injury to their interests by this kind of a merger. Now, once you get beyond that you ask yourself where do you stand. Here are two bodies of stockholders in the du Pont Company. Is there any sense in saying that one is entitled to benefit simply because the others are going to get their du Pont stock directly?

[799]

Q. Well, not only getting du Pont stock directly, but they are also getting a very substantial tax saving or tax avoidance or whatever you want to call it, which you said yourself a moment ago really wasn't important. But I think this is probably—myself, I feel this is one of their controlling thoughts in the matter. That is the Christiana's thoughts. They are giving up a control, they are giving it up for a half-a-billion-dollars windfall or advantage or whatever you want to call it. The rest of us du Pont stockholders are giving this to them with nothing gained to us except that nothing happens.

A. I don't think that that is a—

Q. It is not good business to me.

A. I don't think that is a fair characterization. The rest of the du Pont stockholders are getting 188,500 shares of du Pont back plus all these other assets.

Q. Out of 46 million that is—

A. Excuse me. What the Christiana stockholders are getting is the net effect of the transaction that the law gives them. Nothing is coming from the du Pont stockholders that affects their vital interests.

Judge Ullman: Gentlemen, we have had so much argument in this case at a stage that should be producing evidence that I think we may reach a very unique situation here where there will be nothing left for the lawyers to say

[800]

in their post-hearing documents.

Please proceed, Mr. Murtaugh. Excuse me, Mr. Maher.

Mr. Maher: I am not the lawyer.

By Mr. Maher:

Q. One more question. You referred the other day to—I don't know exactly what the situation was regarding. It had to do with the Dow Chemical Company had a stock split. Now this was tossed in, and I didn't see at the time—I don't have the transcript in front of me. I didn't see at the time what it had to do with this particular case, and I still don't.

A. Well, let me make myself clear. I probably didn't express it very well.

I simply commented on Friday that in reading the Wall Street Journal that morning I had noted that Dow was having a stock split and that in another instance Alcoa

shares were coming to the market from the Mellon family. And I was addressing myself to Mr. Murtaugh's point that if the shares are outstanding, that is a threat to the market, to the price of the shares, and I was suggesting my inference at least that if that was a valid point, then the management of Dow must be negligent in splitting its stock.

Q. Well, I don't quite see it that way, because as I see a stock split, you don't increase the overall equity in the company. You just get two shares for one, but you have

[801]

half the value for each share.

A. I think that is true.

Q. I don't think that is true in this case. They are getting full shares free to move which they could not move at this point.

A. They could not move the shares while they are in Christiana's hands, that's right. Christiana could move them.

Q. I was just trying to figure out your simile. It didn't make too much sense to me. No more questions. I think I have got it clear.

Judge Ullman: Does the Division have cross-examination?

Mr. Osheroff: Yes, Your Honor.

By Mr. Osheroff:

Q. Mr. Shapiro, to maybe finally clarify the record on this point, is it your testimony that you know of no intent on the part of any particular member of the du Pont family to sell their shares in du Pont if the merger is effectuated?

A. That's correct. And I would go beyond that. I know that inquiry has been made of the heads of each of

the branches of the family represented in Christiana, and they have assured counsel for Christiana that there is no plan to sell.

[802]

Q. The finance committee of the du Pont corporation has been discussed briefly on the record. And I understood you to say that a number of members of the du Pont family are on the finance committee.

A. Yes.

Q. Firstly, what is the function of the finance committee?

A. The finance committee reviews the capital appriation requests in excess of $2½ million and either votes them up or down as the case may be. As a matter of procedure, the industrial department presents a proposal to the executive committee, the executive committee approves it, and if it involves an allocation of more than $2½ million it goes to the finance committee for its review. And if the two authorize it, then the appropriation is made. Now, it has related duties in connection with the declaration of dividends recommendations and matters of that sort.

Q. They have a final voice in capital outlays, or is it sort of a veto power? How would you describe it?

A. It is a veto power in the sense that the executive committee approves and the finance committee has the power to disapprove if it chooses to.

Q. How many members of the finance committee are there?

A. I would guess about seven. But I am not absolutely certain.

[803]

Q. How many members of the du Pont family are on the finance committee?

A. A majority. I can tick them off if you want to take the time for it?

Q. For the record.

A. Well, the chairman is Mr. Greenewalt. George Edmunds is a member of the du Pont family. He is on the committee. A. F. du Pont is on the committee. Sam Carpenter is on the committee. In addition to these people you have Mr. McCoy, Dr. Kane, Dr. George Holbrook. I think that may be all of them.

Q. How are the members of the finance committee appointed? And what is the tenure? How can they be removed?

A. They are members of the board of directors. The board designates a finance committee from among its members just as it designates an executive committee. It is a one-year term in that sense. Each year as the board is organized the various positions are designated.

But in practical effect, it is a continuing assignment.

Q. Did the finance committee have any—or does it have any voice in the terms of the merger?

A. It did not. It normally would in any other kind of a transaction. But in this case there was not a quorum of the finance committee that was not involved in the merger on the other side, and so the matter went from the executive

[804]

committee to the board.

Q. Are you saying that in view of the involvement of the members of the finance committee there was an insufficient quorum for them to consider it?

A. That's correct.

Q. Otherwise they would have considered it?

A. In a normal—"normal" is not the word I want. In the ordinary merger transaction involving a substantial

sum of money the proposition would come to the executive committee; it would recommend to the board that affirmative action be taken. The finance committee would review it and enter recommendation. And the board would finally act.

Q. Getting to the early stages of the consideration of the merger, I understand the initial meeting of the du Pont Corporation people with respect to the merger was April 28th.

A. No. April 26th, I think. It was a Wednesday. Our executive committee met on a Wednesday, and I think the Christiana board met on the 28th, a Friday.

Q. Were there two meetings on the 26th and the 28th.

A. We had a meeting on the 26th, as I remember it, and then—that was the Wednesday. And on the Friday morning all the counsel and the financial people in-house met, and that afternoon the Christiana board acted, and as I remember it it was announced after the market closed on that Friday afternoon.

[805]

Q. What was the earliest date at which the du Pont people—I mean the corporate people started considering whether or not Christiana had any alternatives to the merger?

A. I would assume it would have to be after the 26th of April. That is when the executive committee agreed to go forward and designated a negotiating committee. And as I remember it that is when I got a staff organized to go to work. It was that week, at least. By the Friday of that week Mr. Grimes and Mr. Welch were at work on this subject and were attending the meeting with counsel.

Q. Yes. As I recall Mr. Grimes' testimony, he indicated that the possible Section 333 alternative was discussed at the April 28th meeting, or so he thought.

A. I think so. At that meeting there was a run-down of everything anybody could think about as an item for consideration and assignment of jobs to be done.

Q. At that April 28th meeting, assuming that is the correct date, do you recall what, if anything, was said about the Section 333 alternative?

A. I think that there were statements by counsel for Christiana that Christiana had an alternative to liquidate under Section 333. I don't remember at this point in time whether they had number calculations at that time or not.

Q. Did you have a view at that time, were you skeptical at that time of the Section 333?

[806]

A. I simply didn't know enough about it to have any view. I had heard the designation, but I didn't know enough about a 333 liquidation to be able to talk about it intelligently at that point in time.

Q. Prior to getting any of the recommendations of the three financial advisors, did you or Mr. McCoy to your knowledge or other people at du Pont have a fairly firm view as to what you felt the terms of the merger should be?

A. No, I don't think so. I had some tentative ideas that imposed a floor on the thing, but that was all. I am not sure that Mr. McCoy had even gone that far at that time. We were waiting for the financial reports.

Q. Now, you said I believe in your testimony Friday that what you did essentially was to first of all bring to it—I take it that means the merger—a businessman's viewpoint of the transaction "and then seek to get the best financial advice we could get and the best legal advice we could get to test what our own thinking was." Then you said in terms of being able to get the tax ruling and to get the appropriate exemption order, et cetera. Does that

mean you had some conception of what generally the terms should be or does that mean something else?

A. I don't mean to say—if the record sounds that way—that we first sat down and said let's first figure out what we would do as businessmen; then we will get some

[807]

financial advice and see how that checks with the decision we made before. I think what I was saying, or intended to say, was that we approached it when we got down to the final consideration on the 4th of July weekend in terms of what makes sense from a businessman's standpoint, what makes sense from the advice we are getting from the financial advisors, and what makes sense in terms of getting an appropriate SEC exemption order.

Q. You also testified that you and Mr. McCoy had agreed among yourselves on the terms that you wanted to bargain for.

Mr. Gribbon: Could you give me that transcript reference, please?

Mr. Osheroff: Yes. That is on page 716, at about line 10.

Mr. Gribbon: Thank you.

By Mr. Osheroff:

Q. If the advisors had suggested or recommended a substantially greater discount than actually was the case, would your negotiating committee have recommended merger on those terms?

A. You are asking me to assume that the advisors came in and said instead of the numbers they had they had substantially different numbers?

[808]

Q. Let's say a 5 to 10 percent discount.

A. All right. And what assumption should I make about the advice on what is the proper construction of the statute?

Q. Are you referring to the Investment Company Act?

A. Yes. Yes. I got financial and legal advice. And I think the practical answer would be that we would have been guided substantially by the financial and legal advice we got as to what the statute means and what is appropriate under the circumstances.

Q. Now, you did have familiarity with the draft reports of the investment advisors.

A. Two of them. The third, the Kidder, Peabody report, I heard an oral presentation. I don't think I have read the report.

Q. Okay. Let me refer particularly to Division Exhibit 3, the Morgan Stanley draft report. You were familiar with that?

A. I did see that on June 30th.

Q. And there was a meeting on June 30th, is that correct?

A. There was a meeting on June 30th in which each of the financial advisors presented an oral summary of their views.

Q. Now, did the negotiators and counsel, etc., discuss the draft reports, particularly the Morgan Stanley draft report, at that June 30th meeting?

A. I don't think there was a discussion at all. This

[809]

was simply a matter of hearing the reports of the three financial houses. The only discussion I recall was with Kidder, Peabody. Their oral presentation recommended an exchange without any discount. And one of us asked from the table why they had not submitted a range as the request had said, and in response to that they said, well, they thought the transaction ought to be on a no discount basis, but if a range was desired their numbers were a premium of 1.7 to a discount of 1.7.

Q. Now, Morgan Stanley was the advisor to both Christiana and du Pont.

A. That is right.

Q. Its draft report speaks in terms of a discount of .5 percent to 2 percent.

A. That is correct.

Q. Did you think that that was a reasonable approach?

A. I had no reason to disagree with it. I think it made sense to us. We thought that we would like to see the ceiling a little higher than that, but we had no problem with their basic approach.

Q. Well, their approach, as I read the document, relied almost exclusively on the then supposed existence of a Section 333 liquidation which would cause an incurring by Christiana of a maximum 2.84 percent tax impact. Is that your understanding?

[810]

A. They made a point that said that was the maximum exposure that Christiana could tolerate, that is right, based on the 333 concept.

Q. Well, isn't it true not only did they make a point of that, but isn't it true that in their draft report that their views for setting their ranges in the merger relied almost exclusively on what they supposed the 333 impact would be?

Mr. Gribbon: Your Honor, I submit that exhibit will speak for itself. It is a 22-page document that is in evidence.

Judge Ullman: Do you want to press the question Mr. Osheroff, or——

Mr. Osheroff: No, I will just make that assumption for the time being, Your Honor.

Judge Ullman: I am not sure I understand whether you are waiting for an answer from the witness or whether you want me to rule on the objection.

Mr. Osheroff: No, let me rephrase it.

By Mr. Osheroff:

Q. What did you understand the basis of Morgan Stanley's draft opinion to be?

A. I understood the basis of their opinion to be that this was a merger with an investment company; that the traditional approach was one of measuring the fair asset

[811]

value of the assets; that in cases of this kind there had been mergers with no discounts or premiums, there had been cases in which premiums had been granted, and there had been some cases in which discounts had obtained. The highest discount known was the 1½ percent in the Christiana-Delaware merger. And I am not clear in my recollection now whether they adverted to the Utah Construction merger or not, but that was one that was not brought to the SEC, as I remember.

Q. Now, at page 20 of Morgan Stanley's draft report, as I read it in the last paragraph, isn't it finally what Morgan Stanley says that what they supposed would be the impact of a 333 liquidation, that is, 2.84 percent—that it is that discount which is significant in considering merger terms?

A. There is a sentence at the bottom of the page that says that. I concede that. But I suppose their views are really summarized on page 21 and following under the conclusion.

What I had in mind particularly, Mr. Osheroff, is the material at the bottom of page 21.

Q. Right. In which it says that "Values in the range of adjusted net asset value (no discount) to a discount in the area of 2.84 percent would appear to represent the widest range within which negotiations should be conducted."

[812]

But I assume you agree that the 2.84 figure is apparently based on the then supposed impact of a Section 333 liquidation?

A. That is the way I understand it.

Q. Okay. In view of the fact that the 333 liquidation was ultimately felt to be unfeasible—not feasible, wouldn't the bargaining—wouldn't the du Pont Company's bargaining power in the merger then be improved considerably?

A. Well, it was improved, and we bargained for a higher number, and we thought we took it to as high a number as we could given the circumstances.

Q. Well, if Morgan Stanley, the joint advisor, believed that a potential tax impact of, as I understand it, 69.5 million, or 2.84 percent, to Christiana would result from a then thought to be viable alternative and Morgan Stanley under those conditions felt that the maximum discount should be 2 percent, once that alternative disappeared do you think that Morgan Stanley's final report which raises the discount to 2.5 percent, or only another half a percent—do you think that that is a reasonable change of opinion, a sufficient recognition by Morgan Stanley of the circumstances as they then were?

A. We did, yes. As a matter of fact, it is strange to relate under these circumstances, but our great concern at that time was an argument made by the other side that said

[813]

that at 2½ percent there is substantial doubt that you can get an exemption order; that it is up to the Commission to look after the interest of the Christiana stockholders and 2½ percent is pushing things pretty far.

Q. Did you understand that the Commission was perhaps looking more closely at the consequences of the merger to Christiana?

A. No. The argument was simply that given the history of the Commission's administration of the Act, it was pushing things to the limit to get this up to around 2½ percent, and the argument was made by counsel for Christiana and we obtained an opinion from our counsel as to what their view of the law and the Commission's policies was, and it was based on that kind of advice, both financial and legal, that we wound up where we did.

Now, I would add to that if you go beyond the question of just the financial advisors and the legal advisors, that we also had a substantial view that if we pushed our luck much further the odds were pretty good that the Christiana management would find that it could not agree to higher terms and would walk away from the transaction.

Q. You felt that based on real evidence to that effect, or your own assumptions?

A. Our analysis of their situation. As we viewed it, they had advice from their counsel, they had advice

[814]

from their financial advisors. And if they accepted terms that went much beyond that kind of advice, they were taking a substantial risk that some of their stockholders would have decided they had been bad partners and would have brought litigation against them. And so our conclusion was that they didn't have much freedom to go beyond

where they were. And as the facts turned out, they were reluctant to go at 2½ percent. This was a very strange situation.

Q. Did you have an opinion as to what the actual tax impact to Christiana might be if 333 liquidation were effected?

A. No. As I understood the situation, one could not get an answer without first distributing the stock and then having the challenge come to the stockholders who had received the stock. And that seemed to me an impossibility because before you could distribute the stock you had to have consents from 80 percent of the stockholders to the distribution. It seemed to me they couldn't possibly consent without knowing the tax consequences.

Q. Mr. Grimes testified that he felt the actual tax impact to Christiana in a 333 liquidation might be in the $200 to $400 million range, or 10 to 20 percent of Christiana's assets.

A. I think if I remember his testimony he said he just reached out into the air and grabbed a number. At

[815]

least I don't know of any solid factual basis for arriving at a calculation.

Q. Was such a potential figure discussed at all?

A. Not that I know of.

Q. Not by you?

A. Not by me.

Q. Not discussed with you?

A. And not discussed with me.

Q. Inasmuch as Morgan Stanley's draft report seemed to rest heavily on the 333 alternatives in setting limits, when that alternative disappeared and the final report increased the discount by a half a percent, did you discuss

with Morgan Stanley whether they had taken sufficient cognizance of the changed circumstances?

A. Well, I think the sequence was the other way, Mr. Osheroff. As we went into the negotiations the numbers that we had before us were a discount of a half percent to 2 percent by Morgan Stanley plus 1.7 to minus 1.7 by Kidder, Peabody, and plus 1.1 to plus 3.7 by First Boston. And as you may recall, First Boston had no involvement with the 333 issue.

We chose a number as the only number we were willing to accept that landed right square in the middle, it so happened, of the First Boston range, and was higher than the ceiling that either Morgan Stanley or Kidder,

[816]

Peabody had used in their draft reports.

Q. Well, did you have that number in mind after the Morgan Stanley draft report but before its final report?

A. We had the 2½ percent in mind, yes.

Q. Yes.

A. Yes, we arrived at that number over the Fourth of July weekend.

And just to fill out this thing, so that you will understand the sequence, after the parties had been through the negotiations and we had finally gotten Christiana to agree to the 2½ percent, Morgan Stanley and the others were asked to then express a view as to whether that was a fair and reasonable number that didn't involve overreaching, and each did.

Q. Okay. Let me just clarify the chronology.

As of June 30th you have the Morgan Stanley draft report which sets a 2 percent discount limit. Around July 3d or July 4th you determined that the negotiating committees at du Pont—or both of you determined that the 2½ percent figure——

A. This is just du Pont.

Q. Just du Pont?

A. Just du Pont.

Q. Determined that the 2½ percent figure is perhaps a desirable one. And at that point you indicate to Morgan

[817]

Stanley what you determined? Or do you have their final report first?

A. No, we don't have their final report until the negotiations had been completed. The sequence is this. Let me see if I can run through it quickly.

Q. Okay.

A. On Friday, June 30th, the three financial advisors orally report their views. On that—well, we have two draft reports in writing, the Morgan Stanley and the First Boston. We do not have Kidder, Peabody. On that weekend, particularly on Sunday of that weekend, we met at Mr. McCoy's home and spent a better part of the day reviewing all the materials and all the alternatives we had and worked out what we thought was a sensible bargaining position for the negotiation that was to start the next morning. The next morning before we went into the negotiation we had a final meeting, having slept on the previous day's discussions, to be sure we were agreed as to what our course of action was. And to state it simply, we decided among ourselves that the best bargaining tactic was to arrive at a number that we thought was fair and reasonable and was compatible with the financial advice and the legal advice we had, to announce it, and to refuse to give any ground in the negotiation with Christiana.

We had two sessions with the Christiana people

[818]

back and forth before they finally acquiesced.

Q. So referring to the Morgan Stanley final report, the cover letter of July 7th therein, which states that Morgan Stanley in effect finds the discount arrived at by you satisfactory, and referring to the actual report setting forth its advice as to the ranges—both of these documents were prepared by Morgan Stanley after you had told them what you felt an appropriate discount was?

A. Well, I think—we told them what the parties had arrived at tentatively.

Q. Right.

A. And we asked for assurance that in the view of each of the financial advisors these were terms that they regarded as fair and reasonable. And each responded that way.

Q. But you did not have—referring to Morgan Stanley, you did not have Morgan Stanley's report in hand—final report prior to giving your views to it, as I understand the chronology.

A. That is correct. That is correct. We had it in hand before we made our recommendation to our managements.

Q. I see.

Judge Ullman: Off the record.

(Discussion off the record.)

Judge Ullman: On the record.

[819]

By Mr. Osheroff:

Q. Let's see, for clarification, Mr. Shapiro, there were two meetings of the du Pont negotiating committee with the Christiana negotiating committee?

A. That is correct.

Q. And could you give me the dates of those?

A. Monday, July 3, and Thursday, July 6.

Q. When was the recommendation made by your negotiating committee to the du Pont board of directors?

A. At our following board meeting, which would have been on the third Monday in July.

Q. And was the recommendation accepted at that time?

A. The board adopted a resolution agreeing in principle to the terms and leaving it to the team to put together the definitive documents to bring back for further action.

Q. You stated that at one point your negotiating committee was thinking of a higher number, I take it a higher discount.

A. Higher than 2 percent, yes.

Q. Higher than 2 percent. Did you have a number in mind which actually got knocked down after discussion with counsel?

A. No. We were at the 2½ percent range. As I remember it, we considered 2.3 for some reason which escapes my memory now. I don't know where we got the

[820]

fraction. But we wound up at 2.5 in a fairly lengthy discussion of the subject. And I think the main point I would make is that we were convinced that it was prudent to decide what the proper number was, everything considered, and to announce it, and not to use it as a bargaining tool.

Q. I believe you have previously testified with respect to the dispersal of the 28 percent block. I think it is on transcript 713—that you regard it of enormous value to stockholders, management and employees of du Pont.

A. Yes.

Q. Briefly, when you referred to the benefit to management, what are you thinking of?

A. I am visualizing those who come after us and are trying to manage the enterprise and see a block of 28 percent of the stock in the hands of people with no experience or understanding of the chemical industry and the problems that they must have to worry about in determining how to run the business and solve the problems that that kind of a block presents to them. Particularly if it should turn out to be a hostile block at some point in time.

Q. Right. If it were a hostile block, would that raise the specter of such things as proxy fights and fights for control?

A. It would.

Q. So one of the benefits would be to eliminate

[821]

the possibility of such struggles, I assume, control fights?

A. Yes, that is right. I think that one of the benefits would be that the stock would be held directly by the people who have the investment and you wouldn't have a block that others might be able to manipulate.

Q. In other words, the dispersal of the block effectively dilutes a potential for trouble?

A. That is one way of saying it, yes. I think I would rather say it in terms of dispersal of the block means that the people who have their investment in the company have control of their own stock and can act in their own self-interest.

Q. I believe that you testified that the benefits which may flow to the Christiana shareholders in the proposed transaction do not constitute any disadvantage, financial or otherwise, to the du Pont Company or its shareholders.

A. Yes.

Q. But wouldn't it be a disadvantage to the du Pont shareholders if the Christiana assets could be acquired for a lesser number of du Pont shares and if that alternative weren't utilized?

A. By definition that would have to be so. By the same token, if the deal slipped away it would be a serious disadvantage to the du Pont stockholders.

Mr. Osheroff: That is all I have, Your Honor.

[822]

Judge Ullman: Is there redirect?

Mr. Gribbon: No redirect, Your Honor.

Judge Ullman: Anything further? If not, you are excused, sir.

(Witness excused.)

Judge Ullman: We will be at recess until 2:10.

(Whereupon, at 12:40 p. m., the luncheon recess was taken.)

[823]

AFTERNOON SESSION.

(2:10 p.m.)

Judge Ullman: The hearing will please come to order.

Mr. Broderick: Your Honor, Christiana will call Mr. du Pont.

EDWARD B. DU PONT

took the stand, and having been first duly sworn, testified as follows:

DIRECT EXAMINATION.

By Mr. Broderick:

Q. Will you state your name and address, please?

A. Edward B. du Pont, 4820 Kennett Pike, Wilmington, Delaware 19807.

Q. What is your educational background, Mr. du Pont?

A. I graduated from Yale in 1956 with a B.A. in economics, and from Harvard with an M.B.A. in 1959.

Q. Are you a member of the Christiana board of directors?

A. I am a member and have been a member since the summer of '71.

Q. Since the summer of '71?

A. Right. August 1971.

Q. Keep your voice up a little since I am pretty far away from you. I want to hear what you are saying.

Are you also an officer of Christiana?

A. I am assistant treasurer of Christiana since the

[824]

spring of '72.

Q. Were you a member of the so-called Christiana special negotiating committee?

A. I was.

Q. Who else was a member of that committee?

A. A. Felix du Pont, Jr., was a member.

Q. Can you tell us, Mr. du Pont, why you and Felix du Pont, Jr., were selected to be members of that committee?

A. We were selected by the board. Their feeling was the negotiating committee should consist of members who were not either directors or employees of du Pont Company.

Q. How many shares of either du Pont common or preferred do you own?

A. 100 shares of the common.

Q. Of du Pont common?

A. Of du Pont common, and no preferred.

Q. How many shares of Christiana common do you own beneficially?

A. Beneficially I own 140,142 shares of the Christiana common, and none of the preferred.

Q. Do you know how many shares of du Pont common or preferred Felix du Pont, Jr., owns?

A. Of the du Pont?

Q. Yes.

A. He owns 16,466 shares of du Pont common and none

[825]

of the du Pont preferred.

Q. Do you know how many shares Felix du Pont, Jr., owns of Christiana common?

A. He owns 134,797 shares of the Christiana common, and none of the Christiana preferred.

Q. Have you ever been employed by the du Pont Company?

A. Yes, I have.

Q. When was that?

A. I was employed from the fall of 1960 to the summer of 1967. I was first in the treasurer's department—I mean first in textile fibers department for about a year, and then I was in the treasurer's department until the end of

1966, and then I moved to the plastics department for a short while and then I resigned.

Q. Have you ever been an officer or director of the du Pont Company?

A. No, sir.

Q. To your knowledge has Felix du Pont, Jr., ever been an officer or director of the du Pont Company?

A. No.

Q. By whom are you currently employed, Mr. du Pont?

A. I am currently employed by the Wilmington Trust Company, and have been since 1967.

Q. And what position do you hold with the Wilmington Trust Company?

[826]

A. Currently I am trust officer in our trust department.

Q. In your capacity as a member of the Christiana special negotiating committee, did you at any time discuss the merger or the negotiations with anyone employed by the Wilmington Trust Company?

A. No, I did not.

Q. Outside of the context of formal negotiations between Christiana and du Pont did you at any time discuss the merger or its terms with any representatives of the du Pont special committee?

A. No. Only during our special meetings.

Q. Mr. du Pont, would you describe for us why in your opinion Christiana decided to explore the possibility of a merger with du Pont?

A. I think there were several reasons. I think one that several of us focused on was looking down the road a few years, that the management that would probably be coming along in Christiana were not active in the du Pont Company, the chemical business; let's say the family ties

in the company, in Christiana, probably weren't going to be there in the future. And we said perhaps Christiana had in some ways outlived its usefulness. And given that premise, perhaps we should look and see whether there were other material advantages to Christiana to merge in with du Pont.

[827]

Q. Prior to entering into formal negotiations with the du Pont special committee, did your committee—and by that I am referring to the Christiana special negotiating committee—did your committee have meetings to discuss various matters relating to the merger?

A. We had four meetings before we met with the du Pont people.

Q. And when did those meetings occur?

A. The first one I believe was May 15th.

Q. And some also occurred in June?

A. May 15th and June 6th and June 13th and June 27th. We had a total of four meetings.

Q. So there were four meetings prior to the commencement of negotiations?

A. Right.

Q. Now, without going into detail as to what occurred at each of those particular meetings, could you describe in general terms what you discussed and decided at those various meetings?

A. Well, I think right off the bat we decided we needed outside financial advisors, and of course outside counsel. And we retained Dechert Price and Rhoads, and we decided we would approach Kidder, Peabody to be our outside financial advisor. I believe that was the first meeting.

At the second meeting we agreed that we want to get

[828]

an appraisal done of the News-Journal, and that we along with du Pont would be willing to accept Mr. Manno as an appraiser if he were to take on the job.

And then we did—I am not sure if it was the second or third meeting, we thought we would like to have Morgan Stanley representing us as well as du Pont because we had had a long history of dealing with Morgan. And so we retained them on a joint basis with du Pont Company.

Q. Let me direct your attention to Kidder, Peabody for a moment.

During these four meetings that we are discussing did representatives of Kidder, Peabody attend any of those meetings?

A. They attended two. The last two meetings, June 13th, I believe, and June 27th. At the first meeting——

Q. Can you tell us what, if anything, Kidder, Peabody reported to you at the June 13th meeting?

A. At the June 13th meeting Mr. Gordon came down and gave us a preliminary talk and said that their preliminary thinking was that net asset value was the way to attack this problem and that their very tentative thinking was there should be no discount or no premium but they hadn't completely focused in on it.

Q. What about the June 27th meeting?

A. Yes. Then they came down again on June 27th and they

[829]

made firm their position was there should be no discount; if anything there should be a premium, but certainly no discount, and if they were pressed their range would be 1.7 down and 1.7 up.

Q. Did you understand, sir, how Kidder arrived at the figure 1.7? By that I am referring to the discount side of net asset value?

A. Well, I think under their—the 1.7 represented the amount of the taxes that would be paid under 333 merger as they understood at that time. So that was their floor below which they didn't think they could go. They were pretty strenuous about it being net asset value, right at parity.

Q. In other words, if I understand you correctly, you are saying that the 333 liquidation, or the possibility of a 333 liquidation led Kidder to the 1.7 discount. Is that correct.

A. I think that is substantially correct.

Q. When did you first learn that Section 333 was no longer considered to be practical or a feasible alternative?

A. Well, I think we learned finally once and for all on July 3d. It had been I would say dying a slow death before that. But as of our June 30th meeting it was at least being talked about. But it died over the weekend.

Q. In other words, it was finally buried on July 3d?

A. That is a better way to put it.

[830]

Q. Of what significance, if any, to you was the unavailability of a 333 liquidation?

A. The unavailability wasn't of really any significance to me. My personal view was that we ought to do this deal at parity, and as long as 333 was still viable it gave us some floor, a negotiating point to work from, it had some merit. But it didn't really affect my thinking. So when it finally was put to bed, I don't think it concerned me particularly one way or the other.

Q. Did you attend the meeting of June 30th, 1972, that had been testified to here by other witnesses?

A. Yes, I did.

Q. Would you describe for us what took place at that meeting.

A. Basically we just listened along with the du Pont negotiating team and lawyers—listened to the presentation of all three financial houses, what their views on the merger were. There wasn't any negotiation really at that meeting.

Q. When did the first negotiating meeting between the two special committees take place?

A. We met on Monday, July 3d.

Q. Would you describe, sir, what occurred at that meeting?

A. Well, first we had our—we did not have the financial advisors with us. There was some discussion of

[831]

the various assets involved and how they were going to be valued. And at some point during the day Mr. McCoy made the statement that he thought—or the team thought that 2.5 percent discount from adjusted net asset value was what they were looking for. But we allowed as how we were looking for parity. There was some discussion of this, and no decision was—on the discount part no decision was reached at that point.

Q. Did Mr. McCoy explain to you why he felt that a 2½ percent discount was appropriate?

A. Well, he said he thought that a discount was—2½ percent discount was appropriate in order to show all the stockholders and the du Pont employees that besides the other benefits there was a tangible, significant monetary value attached to this. And he thought he would have to have this in order to recommend it to his stockholders—or I guess to his board first and ultimately his stockholders.

Q. What was your reaction to the 2.5 discount figure?

A. Very unhappy. As I said, we were going for parity.

Q. And you were not happy with that discount?

A. I was not.

Q. Now, there has been testimony that the second negotiating meeting took place on July 6th between du Pont and Christiana. Prior to that meeting did the Christiana

[832]

special negotiating committee have a meeting itself?

A. Right. We met the morning of July 6th, Thursday morning, with our financial advisors and counsel and with all the non-du Pont Christiana directors except Halleck du Pont was not present, he was sick.

Q. Why was he absent?

A. He was sick, basically.

Q. And what was the reason for meeting with counsel, your financial advisors, and the non-du Pont directors?

A. Well, we wanted to review what had gone on in the previous two meetings with the du Pont people, and we—review what our financial advisors had said and see how 2.5 percent discount sounded to other directors. I mean if they were going to be violently opposed to it it would be one thing. But we ended up with their approval of 2½ percent if that is the best we could do, but they wanted us to certainly try for something less than that. We walked away with approval on the 2.5 at the meeting.

Q. As far as your non-du Pont directors are concerned, then, you had their approval to go to 2.5 if you had to but I take it their request, if that is the appropriate word, was to try to get it for less.

A. Right.

Q. At this meeting that you have been describing did you obtain an opinion from Kidder, Peabody as to their

[833]

view of a discount of 2.5 percent?

A. Yes, we did. And they said it was okay, and they preferred, everything else being equal, parity, but they would go along with 2.5.

Q. Did they tell you at that meeting that in their opinion a discount of 2½ percent would be fair and reasonable?

A. Yes, they did.

Q. You then had your next meeting with the du Pont special committee. Is that correct?

A. Right. We met that afternoon.

Q. Would you describe what occurred at that meeting, sir?

A. It would be short to say we struck out. But we tried to negotiate a lower discount. We came in first with a figure of 1.5 percent, trying to peg it on the previous Delaware Realty merger, and that didn't get very far. And we moved to 2 percent, and were equally as unsuccessful. And after a little conference among ourselves, we went ahead and accepted the 2.5 percent discount.

Q. So at the July 6 meeting you were still attempting to get something less than 2.5 percent?

A. Yes, sir.

Q. But you were not successful?

A. No way.

[834]

Q. Mr. du Pont, would you have agreed to a discount greater than 2½ percent?

A. No, sir.

Q. Why not?

A. Really two reasons. One, it was the—I am not sure of the order of importance, but one, it was the lower limit that our own financial advisor, Kidder, Peabody, was willing to go, and in my own thinking it was about as low as I was prepared to go. I thought we had given a lot away to get to there. We have given the newspaper away, we have given the Wilmington Trust away and we have given 188,000 shares of du Pont stock away. I thought that was enough.

Q. In other words, quite apart from financial advisors, your own personal opinion was that you had given away adequate consideration to accomplish the merger at 2.5 percent?

A. Yes, sir.

Q. Did the Christiana special negotiating committee feel any compulsion to merge into du Pont?

A. No. As I think I said, we had no reason to have to merge. We thought it was—we would take a look at it, but there was no compulsion on our part. We could have walked away—we would have walked away, I believe, if we hadn't gotten terms that we thought were fair and

[835]

reasonable to ourselves.

Q. Did the special committee, your committee, recommend approval of this merger to the Christiana board of directors?

A. Yes, we did. We sent two reports to them in July.

Q. Did the Christiana board approve the merger?

A. Yes, they did. They approved it I guess you would call it in principle on July 17th——

A. Let me stop you right there. On July 17th they approved it in principle. Were all Christiana directors present?

A. No, Halleck du Pont was not present.

Q. He was still ill?

A. He was still ill.

Q. Did the Christiana directors who were also du Pont directors participate in the July 17th meeting?

A. Yes, they did.

Q. And can you tell us why, sir?

A. Two reasons. One, our Delaware counsel said it was entirely legal and proper to have them attend the meeting, and it was also our understanding that they had not participated in any way in the du Pont side of the merger, and therefore could participate as a Christiana director.

Q. Were all directors present on December 18th when the agreement of merger was approved and executed?

[836]

A. Yes, they were all there then.

Q. Including Halleck du Pont?

A. Including Halleck. It was a unanimous vote.

Q. And it was unanimous?

A. It was unanimous, right.

Q. Mr. du Pont, did the special negotiating committee and the Christiana board of directors consider possible adverse market effect on du Pont common if it were sold following the merger?

A. Yes, we did. We considered it very early in the game.

Q. You say very early in the game. When was the first consideration?

A. I believe the first one was at April 28th, at our board meeting, and it was asked whether—assuming the merger went through, whether any of the Christiana directors were planning on selling any of their stock, Mr. Gemmill asked us this, and said if we did we better speak

up. And there was no mention of any selling—any contemplated selling.

Q. So no Christiana director indicated any intent to sell du Pont common. Is that right?

A. That is correct.

Q. Did any Christiana director indicate that he was aware of some other member of the du Pont family who might

[837]

wish to sell?

A. No. Nobody spoke up, said they knew of any selling by—any contemplated selling by anyone.

Q. Can you tell me approximately, Mr. du Pont, if you know, the total holdings of Christiana common which are owned by the Christiana board?

A. Approximately 1,900,000 shares.

Q. You say it was discussed a number of times. Wasn't the subject discussed at subsequent board meetings?

A. Every meeting we had from then on Mr. Gemmill brought up the subject, if anybody was going to—had any intention of selling, we had to know about it.

Q. And the answer was always the same?

A. The answer would always consistently be that none of the directors were going to and they did not know of anybody in their own knowledge who was going to sell.

Q. Do you yourself know of anyone who may wish to sell du Pont common?

A. No, sir.

Q. Was the matter discussed at the December 18th meeting when the final agreement was approved?

A. It was again, with the same result.

Q. Mr. du Pont, when did you first learn that Wilmington Trust Company had no present intention to dis-

pose of du Pont common they would receive if the merger were

[838]

approved?

A. I believe it was in the latter part of June I was advised by our counsel that Wilmington Trust was not going to sell—or had no intentions of selling except in like an estate problem or something like that.

Q. Except in what kind of a problem?

A. Except like if it was an estate problem where they had to raise some funds. But as an investment they had no intention of selling.

Q. What do you personally—assuming this merger is approved, what do you personally intend to do with du Pont common stock you receive?

A. I plan to continue holding my du Pont stock. I think it is a fine investment, and I wouldn't dream of selling any of mine.

Mr. Broderick: Cross-examine.

Judge Ullman: Mr. Collins?

CROSS-EXAMINATION.

By Mr. Collins:

Q. Mr. du Pont, does Christiana Securities Company control du Pont?

A. No, sir.

Mr. Collins: No further questions, Your Honor.

Judge Ullman: Mr. Murtaugh, do you have questions?

Mr. Murtaugh: Yes.

° ° °

[870]

By Mr. Anderson:

Q. ° ° ° first you had heard of the possibility of a merger of Christiana Securities Company into du Pont Corporation?

A. I would say it was the first formal discussion of it. I think at other times—I can't document it—we said some day we ought to think about a merger or some day we ought to perhaps explore it carefully. But it certainly wasn't taken up specifically at other board meetings to my knowledge as a—you know, an item on the agenda or something like that.

Q. And to the best of your recollection was it a subject that had been informally discussed for many years?

A. I can only speak for the time I was on it, but we do know it was discussed back in, what was it, '61.

Q. Now, is it your testimony that the board of directors authorized Mr. Irenee du Pont to send the letter to the du Pont Corporation proposing the merger?

A. I am not sure that authorized is the right word. I know they were polled and I assume gave it their blessing. We didn't have a formal board meeting beforehand —before the letter went out. I believe he contacted everybody that was in town.

Q. Mr. du Pont, to clarify what may or may not be clear on the record now, do you know of any plans on the part of the present holders of Christiana securities to dispose in any way of the common stock of du Pont Corporation

[871]

to be received by them because of this merger?

A. I do not know of any plans of any of the Christiana directors to dispose of their stock.

Q. It is your understanding that their present intent is to hold the securities they receive in the du Pont Corporation?

A. Yes, sir.

Q. Did the du Pont board make the decision—excuse me. Did the Christiana board make the decision to select Kidder, Peabody as its financial advisor?

A. No, sir. The special committee, Felix du Pont and I made the decision.

Q. And how did you make that decision, please?

A. We looked at two things. We wanted, one, a firm that we thought was very well respected and astute, if you want to call it, or a well-known financial house, and one that had not had substantial—that is not the right word—but dealings with du Pont Company, so there woudn't be any—it would be a completely arms'-length transaction. We went to Kidder, Peabody and asked them and they agreed.

Q. Did you have an assistance in making that selection of any type of a staff or legal advice?

A. We certainly talked to our counsel, Dechert Price and Rhoads. And they certainly approved of it.

* * *

[879]

* * *

Judge Ullman: Mr. Gribbon?

Mr. Gribbon: Du Pont is prepared to call Mr. McCoy to the stand.

CHARLES B. McCOY

took the stand, and having been first duly sworn, testified as follows:

Mr. Gribbon: I might observe at the outset, Your Honor, that perforce there will be a degree of duplication between Mr. McCoy's testimony and that of the

[880]

other negotiators since they were involved in the same matter. I will do my best to minimize that and confine his testimony to matters that are new and germane to the proceeding. But I warn you there will have to be some degree of duplication.

Judge Ullman: I wish you luck.

DIRECT EXAMINATION.

By Mr. Gribbon:

Q. Would you please state your name and address?

A. Charles B. McCoy, 700 Snuffmill Road, Wilmington, Delaware.

Q. What is your position with the du Pont Company?

A. Chairman of the board, president, and a director.

Q. Are you also a member of the executive committee?

A. Member and chairman of the executive committee. Member of the finance committee.

Q. For how long have you been employed by the du Pont Company?

A. A little over 41 years.

Q. Have you spent your entire business life with the du Pont Company?

A. My entire business life, yes, sir.

Q. In what major capacities have you served with the du Pont Company?

A. In major capacities, I have been the general

[881]

manager of one department, the assistant general manager of two departments, a member of the executive committee and finance committees.

Q. What was your education prior to coming to du Pont Company?

A. A B.S., University of Virginia, 1930. Master's, M. I. T., 1932.

Q. What operating departments of the du Pont Company did you refer to in your previous answer to my question?

A. Engineering department—well, I can name a couple that were not operating departments by our definition. Engineering department, foreign relations department, purchasing department.

Q. Which departments were you general manager and assistant general manager of?

A. The electrochemicals department, assistant general manager; general manager of the elastomer chemicals department; general manager of the explosives department.

Q. When did you go on the du Pont executive committee?

A. 1961.

Q. Have you been on it continuously since that time?

A. Yes, sir.

Q. Did you at one time become president of the du Pont Company?

A. Did I become president?

[882]

Q. Yes.

A. Yes. A little over five years ago.

Q. Five years ago. Now, have you ever been an officer or director of Christiana?

A. Never.

Q. Do you presently own any stock in Christiana?

A. No, sir.

Q. There has been considerable interest in this proceeding, Mr. McCoy, in 40 shares of stock in Christiana which at one time you owned. Would you tell us briefly about those 40 shares?

A. I gave it to my grandchildren. I hope they still have it.

Q. When did you make that gift?

A. Shortly after these negotiations were undertaken.

Q. And what was the reason for making the gift at that time?

A. Because we thought that even that small amount might make a ripple and it wouldn't be worth the difficulty.

Q. Are you a stockholder of the du Pont Company?

A. Yes, sir.

Mr. Gribbon: I would like the record to note at this point, Your Honor, that in du Pont Exhibit 5, pages E-1 and E-3 of that exhibit projects Mr. McCoy's substantial interest in the du Pont Company.

[883]

By Mr. Gribbon:

Q. Do you recall receiving a communication from Mr. Irenee du Pont in April of 1972 suggesting on behalf of Christiana that du Pont give consideration to the merger?

A. I do.

Mr. Gribbon: That, for the record, is Joint Exhibit 1. I believe—2. Joint Exhibit 2.

By Mr. Gribbon:

Q. Prior to receipt of that letter had you had any communications or discussions with Mr. du Pont about the possibility of a merger?

A. No, sir. Nothing of a serious nature.

Q. Had you had discussions with any Christiana representatives prior to receipt of this communication?

A. No.

Q. Had you prior to receipt of this Christiana proposal of April 20 given any consideration within the du Pont Company to the possibility of a merger with Christiana?

A. We never made any study at all to my knowledge. They may have done it some years back but not in recent times to my knowledge.

Q. Aside from the study had there been any discussion or consideration of the advantages or disadvantages of such a merger?

A. No. No, sir.

[884]

Q. What actions did you take upon receipt of the Christiana merger proposal in April of 1972?

A. I immediately got in touch with Mr. Shapiro, who has the responsibility for liaison in our company in both the treasurer's and the legal departments, and showed him the letter, and we discussed its possible import and the best way to try to organize ourselves to analyze it and to see whether or not there was a possible plan that would be of value to us.

Q. Did you submit the proposal to anyone other than Mr. Shapiro?

A. The first meeting of the executive committee following that the letter was submitted to the executive committee for their consideration and analysis, with my recommendation that we set up a committee consisting of Mr. Shapiro and myself to deal with it.

Q. And was such a committee established?

A. It was established.

Q. In the meeting of the executive committee was there any opposition to the merger expressed?

A. No, sir. There was not enough known about it for anybody to take a position one way or the other.

Q. Were you favorably disposed towards the merger?

A. I was disposed favorably toward a solution of what I thought was a long-term Christiana problem, yes.

[885]

Q. What do you mean a solution of a long-term Christiana problem? What do you have in mind in using those terms?

A. I had in mind only in a very general way the long-term composition of the board of the du Pont Company. And knowing the difficulties of obtaining the kind of board that a major corporation needs these days, I was concerned that what would be the position way out with respect to the Christiana group. And this seemed to me to present the possible solution to that problem, if it developed to be a problem. I had no way to tell.

Q. How would you anticipate it to be the solution to the problem you have described?

A. Well, the only way that it could be a solution would be if the block itself were broken up so that it was not there as a target for somebody to go after or would not fall into the hands somewhere down the line of either a group of people who would be unable to discharge the responsibility that went with it or might have serious dif-

ferences of opinion and lead to factional representation.

Q. In your proxy statement, Mr. McCoy, in past years there has appeared the statement that du Pont denies that it is controlled by Christiana. What do you mean by that statement?

A. Well, that statement I think has been in our

[886]

publication for many years, and it refers to the denial of control in the sense that, as I understand it, it is interpreted by the SEC. And in my view, it has a strictly legalistic sense and does not represent the facts of operation of the du Pont Company.

Q. Does Christiana tell you how to run the du Pont Company?

A. I have never had an instruction, a mandate, or anything that suggested that they did.

Q. Has Christiana ever vetoed any action that you wanted to take in the du Pont Company?

A. No, sir.

Q. To what extent does Christiana have any influence in the du Pont Company?

A. Christiana has an influence only through the people who may be stockholders of Christiana who are on our board and who may have served in the company. But their position in the company is based on their performance in the company, not on their position in Christiana.

Q. What persons do you have in mind and what positions in giving your previous answer?

A. Well, I have in mind, of course, my immediate predecessors, of whom three are still living. Walter Carpenter, Crawford Greenewalt, and Lammot Copeland.

Q. Are they still serving with the du Pont Company?

[887]

A. They are still on the board of the du Pont Company, yes, sir.

Q. And do they serve on any of the committees of the company?

A. Lammot Copeland is on the finance committee, as is Crawford Greenewalt, who is, as a matter of fact, chairman of the finance committee.

Q. Are there other Christiana directors that serve on the finance committee of du Pont?

A. Yes, I think that is—I don't know, Hugh Sharp, I think his brother is a director. I think they would be the ones who are co-directors, but it is right in the record.

Q. Mr. Irenee du Pont is on the du Pont executive committee?

A. He is not on the finance committee.

Q. He is on the du Pont executive committee?

A. Yes, sir.

Q. And he is a director of Christiana?

A. He is the president of Christiana.

Q. Other than Mr. Irenee du Pont, are there any Christiana directors on the du Pont executive committee?

A. No, sir.

Q. Were you aware, Mr. McCoy, that the consummation of the merger of du Pont and Christiana would give substantial benefits to the shareholders of Christiana?

[888]

A. That was pointed out in Mr. Irénée du Pont's letter.

Q. Was the securing of such benefit to the Christiana shareholders a reason for your being favorably disposed to consider the merger?

A. Nothing to do with it.

Q. Was it an adverse factor in your opinion?

A. Well, I should think it makes it more difficult to arrive at a fair bargain that is attractive to all stockholders.

Q. What did the special negotiating committee—what actions did it take in its examination into the proposed merger?

A. Well, the competent group were called together—well, in the first place, Mr. Shapiro and I had an agreement that inasmuch as he was much more directly connected by both experience and training, with the financial and legal aspects of this problem, that he would sort of quarterback the day-to-day affairs, keeping me fully informed and posted on any problems that arise, or also the progress of the study. And then we agreed that with the help of our legal and treasurer's people we would try to identify all factors, call in outside experts, and try to analyze the problem as thoroughly as we could.

Q. During the course of these explorations did you have

[889]

any discussions with members of the Christiana board, major stockholders of Christiana, with respect to the merger?

A. None at all.

Q. Was the appointment of the special committee approved by the du Pont board of directors?

A. It was approved by the du Pont board of directors at the meeting immediately after the—first following the meeting of the executive committee.

Q. That presumably would be the May meeting of the board of directors?

A. Yes.

Q. Was there any extended discussion of the merger at that May meeting?

A. No, there was not an extended discussion, because there was nothing to discuss at that point. We told them the steps we had taken and that we would report back just as soon as we had anything of value—of interest.

Q. The record in this proceeding shows that the two negotiating committees jointly retained Morgan Stanley as a financial advisor, and that du Pont in addition retained First Boston as a financial advisor. Why did the committee seek the advice of a second banker?

A. Well, in the course of our discussions among ourselves we thought that Morgan Stanley would bring to the negotiations a long background of some of the problems

[890]

and history on both sides. We had also had very favorable experience with them over the years in the quality of their advice, and so we thought they were a natural. But we thought that in order to get as much assurance as we could of the fairness of the negotiations, that it would be very wise to get somebody of great reputation on the outside who had had no prior dealings with us and could look at it as strictly a financial transaction.

Q. Had du Pont had any prior dealings with First Boston Corporation?

A. To the best of my knowledge, none at all.

Q. Did you, Mr. McCoy, attempt in any way to influence First Boston or indicate to them what you thought the outcome of their advice ought to be?

A. No, sir. I had one meeting with the First Boston people before they came down to present their views which was in the nature of a sort of a social luncheon so that as I looked at it, we as principals could get to know each other a little bit. But beyond that, nothing.

Q. To your knowledge, did any of your advisors, either within the du Pont Company or without, attempt

to indicate to First Boston how they should come out on this problem?

A. I should certainly think not.

Q. The engagement letter to First Boston indicates

[891]

that you asked them to advise you as to terms that would be fair and reasonable to both parties and that did not represent overreaching. Why did you ask for that kind of advice?

A. Well, as I understood it, the letter of that follows the pattern of the applicable laws of the SEC, as well as my own feeling—personal feeling that that is the only kind of an arrangement that you could live with.

Q. You mean you didn't want to be involved in an arrangement that was overreaching?

A. I certainly do not.

Q. You were aware that this transaction had to be approved or submitted to the Securities and Exchange Commission?

A. That gave me a great deal of comfort.

Q. Did the directors of du Pont who were also directors of Christiana or owners of Christiana stock participate in the consideration of the merger on the du Pont side in any way?

A. Did the Christiana people participate on the du Pont side?

Q. Yes.

A. No, sir, they were excluded.

Q. What steps were taken to isolate them from the transaction?

[892]

A. When there were meetings of the—of course in the internal meetings with Mr. Shapiro and Mr. Grimes and

Mr. Welch, other members of both the treasurer's and legal department, there were none of them ever present. At the meetings of the executive committee, when we reported progress or decided to discuss in any informal way the problems in connection with this potential merger, Mr. Irenee du Pont was excluded, and the same applied at board meetings. The directors—du Pont directors who were either directors of Christiana or shareholders of Christiana were asked to leave the boardroom.

Q. Was the finance committee asked to consider the merger?

A. The finance committee was not considered because of the fact they—because they were largely Christiana members.

Q. So the merger was not even submitted to them.

A. It didn't seem to us to be the right place to consider it.

Q. Would a transaction of this nature normally have been referred to the finance committee?

A. Normally any important financial matter is cleared with the finance committee, yes.

Q. But in this case there was no finance committee consideration whatsoever.

[893]

A. No, sir.

Q. Now, as you considered the terms on which this merger might be carried out, and before receiving any financial or legal advice, did you believe that you should on behalf of the non-Christiana du Pont shareholders attempt to extract from Christiana some substantial participation in the financial benefits flowing to Christiana?

A. No, I looked at the problem as one of trying to arrive at a solution that would be fair to the du Pont stock-

holders, totally, and that the result as far as Christiana themselves was concerned was their affair. Our affair was to make sure that the du Pont stockholders didn't suffer any disadvantage and that if there were a merger that it would be under such terms as there would be no question in the minds of our stockholders or of the people in Washington that it was fair and square.

Q. Did you see your du Pont stockholders other than Christiana suffering any disadvantage as a result of this merger?

A. I do not.

Q. In your view did the benefits flowing to Christiana shareholders cost the non-Christiana shareholders of du Pont anything?

A. If the merger goes through——

Q. Yes.

[894]

A. I—no, just the reverse. I think it is a benefit, great benefit to the du Pont stockholders.

Q. Now, when you did receive advice from your financial advisors, particularly your outside financial advisors, did such advice confirm or alter your view as to the propriety of extracting a portion of the benefits from the Christiana shareholders?

A. Well, it didn't really raise the issue, in that Morgan Stanley—First Boston, when we discussed this famous liquidation route, paid no attention to it. They felt that it had no bearing on the problem. They were the only ones with whom we discussed the terms prior to the negotiating session.

Q. Well, now, at the negotiating session did you understand that Morgan Stanley advised that du Pont should properly share in the financial benefits going to the Christiana shareholders?

A. No, they did not take that position.

Q. Did First Boston take that position?

A. No, sir.

Q. Did the legal advice that you received regarding this transaction alter or confirm your view as to the propriety of extracting some portion of the benefits——

A. The legal advice, as I interpret it, gave no

[895]

importance to that at all, and said that it was not a factor in the decision—should not be a factor in the decision.

Q. Did you regard the discount which was ultimately negotiated as a sharing by the du Pont shareholders in the financial benefits going to the Christiana shareholders?

A. No, sir.

Q. What did you regard that discount as?

A. I regard that discount as in line with the practice in the past of any mergers that I have heard about that were in any way comparable. I regard it as fair in the eyes of the best professional advice that we can get from either legal advisors or financial advisors, and I regard it as fair to our stockholders as some justification for going through this rather long-drawn-out set of negotiations.

Q. Were you kept informed as to the progress being made by the financial and legal people who were developing recommendations for your committee?

A. I was.

Q. On a day-to-day basis were you involved?

A. I would regard it on a day-to-day basis, although certainly there were sometimes two or three days when I wouldn't even think about it.

Q. How did you and Mr. Shapiro share this burden?

[896]

A. Well, as I think I tried to explain earlier, he was much more intimately connected with it on a going-

forward basis, but we are only a few steps apart and no distance by telephone, so that we had a very good working relationship.

Q. Did you prior to the meeting of the entire negotiating group on June 30 confer with Morgan Stanley, the advisor that was hired jointly by you and Christiana?

A. No, sir, I did not.

Q. When did you first learn the views of Morgan Stanley as to the terms that would be fair and reasonable here?

A. When they stood up that morning and presented their view.

Q. That is the morning of June 30?

A. The morning of June 30, yes.

Q. Did you make any effort in advance to influence Morgan Stanley in the views that it was expressing on this merger?

A. I had no contact with them at all.

Q. To your knowledge did any of the du Pont representatives make any effort to influence Morgan Stanley to any particular view on the merger terms?

A. I am satisfied they didn't.

Q. Did you confer with First Boston prior to the June 30 meeting?

A. We conferred the night before. We had quite a

[897]

long evening session with them, at which time they presented their analysis of the problem, the recommendation that they would make to us as our consultants.

Q. And do you recall whether that recommendation presented that night changed later or remained firm?

A. It has been firm from start to finish.

[898]

Q. It hasn't been altered by any subsequent developments?

A. No, sir.

Q. Did the discount that was ultimately agreed upon by the negotiating teams fall within the range recommended by First Boston?

A. It fell within the range.

Q. Now, directing your attention to that meeting with First Boston which would have been I believe on the evening of June 29th, do you recall if there was any discussion of the possible impact of the merger upon the market value of du Pont stock?

A. There was a discussion of that, and they took into account looking at it as a straight investment problem and assured us that they see didn't see any market impact.

Q. Prior to that meeting, Mr. McCoy, did you personally have any apprehension as to an adverse market impact on the value of du Pont stock?

A. Well, I had given it thought from my own personal point of view, tried to analyze it. I am not a security market man. But having some holdings of du Pont I was quite interested to arrive at my own personal conclusions on it.

Q. What were those conclusions?

A. That it would have no impact.

Q. What did you take into account in arriving at your own personal conclusion that it would have no impact?

[899]

A. Well, I know the history pretty much of the holdings of du Pont and Christiana over the years. I know that it is not trading stock in any sense of the word. I know that therefore, as does mine, it has a very low base.

I know the difficulty of trying to figure out how you can take a 30-percent licking and pay two commissions and reinvest the proceeds in a more attractive security. I have great respect for the securities market and its ability to absorb offerings. And the fact that it is very difficult to produce bargains by manipulation of the market.

Q. Were you aware of any plans on the part of Christiana shareholders to make substantial or significant dispositions of du Pont stock upon consummation of the merger?

A. No, sir, I was not aware of it. And it was discussed a number of times as to whether or not that was a factor, and I was assured that it was being checked out and that there was no plans. Furthermore, that this would be clear by the time we came to Washington.

Q. Had you personally talked with the major Christiana stockholders as to their intention with respect to possible sales?

A. No, sir.

Q. Why not?

A. Well, I just don't consider that that was any part of my approach. I was not discussing this merger with

[900]

them in any way.

Q. With whom were the du Pont people discussing the merger?

A. The merger discussions before the negotiations were all between counsel.

Q. And was that by design, that the discussions were limited to counsel rather than the principals involved?

A. It was agreed.

Q. And what was the purpose for that arrangement?

A. To make sure that there weren't any misunderstandings or that there was no undue influence or any

chance to take steps that would not fit into the sensible approach.

Q. You stated that you were advised, however, that the matter of possible sales by the Christiana shareholders was being checked into. Who was doing that checking so far as you know?

A. Excuse me. Would you repeat that? I was—

Q. I say you testified earlier that while you made no inquiries you were advised that the question of whether Christiana shareholders did intend substantial sales was being checked into. Who was doing that checking?

A. I understood that it was being checked by Christiana's counsel.

Q. And what did you understand the answer to be?

A. I understood it was the negative.

[901]

Q. Were you aware that it was contemplated that a significant number of Christiana shareholders would be given registration rights which would enable them to sell under certain conditions their stock?

A. Yes, sir.

Q. Did you draw any inference from that as to the prospects of substantial sales?

A. No. I think that that has been as a matter of business practice in mergers.

Q. At this meeting on June 29th, what view did First Boston express to you as to the possible impact of the merger on the value of du Pont stock?

A. They expressed very strongly the view that it would not have any impact. Perhaps favorable.

Q. Was this an offhand expression, or do you recall to what extent it was discussed at this meeting of June 29th?

A. Well, I can't recite the questions or remember the length of the discussion, but it was quite a detailed discussion all during the evening, one factor after another. And this was one that they had been asked to consider, and it was reviewed at that time.

Q. Do you recall whether thereafter Morgan Stanley expressed a viewpoint as to the possible market impact on the du Pont stock?

A. At the presentation the next day I believe they

[902]

covered that, yes. That it would have no impact.

Q. It would have no impact?

A. Oh, well, it would have perhaps a temporary impact but they didn't consider it as an important factor in the merger negotiations.

Q. Did you then in going into these negotiations feel that you had to bear in mind as a significant factor the prospect of an adverse impact on the market value of du Pont stock?

A. I did not.

Q. Turning now to the first meeting of the negotiating committees, which I believe it has been testified to was held on June the 30th, a Friday, was any negotiating done at this session?

A. No negotiating at that session.

Q. What in substance transpired at this time?

A. That was a presentation first by Morgan Stanley, second by First Boston, and third by Kidder, Peabody of their analyses of the problem, recommendations for its solution, ranges, with the exception of Kidder, Peabody who didn't come up with a range, at first, anyway. And there were I think questions of fact or interpretation as the presentations were made, but no negotiation between

the negotiating committees. Nor were there any remarks made that could have been construed as negotiating.

[903]

Q. Did each banker who presented his position expose himself to questions from the assembled group?

A. That's right.

Q. When did the first negotiating session take place?

A. On July 3rd, the following Monday.

Q. The following Monday. And who was in attendance at that meeting?

A. At that meeting the two negotiating committees, their legal counsel. We had some of the people from our own Treasurer's Department. I think that is all. There were no bankers there.

Q. Do you recall Mr. Shapiro's testimony this morning as to what transpired within the du Pont committee between the June 30th session and the July 3rd session?

A. That's right.

Q. Do you see any reason to disagree with his recital of the events?

A. No. I think it was very accurate. It was a long weekend.

Q. Do you recall that during that weekend there were developments with respect to this possibility of a Section 333 liquidation?

A. That was discussed at our meetings over that weekend, that it seemed to be dropping out and the chances are that it would be acknowledged by the time we got to the meeting on

[904]

the 3rd.

Q. What impact, if any, did the demise of Section 333 in this matter have upon your committee's deliberations as to the terms?

A. I would think the only impact was that it gave us the confidence that our number would be a saleable one.

Q. Would you elaborate on that. Why did it give you that confidence?

A. Well, Mr. Shapiro and I had discussed this liquidation possibility amongst ourselves over the course of our consideration and we were inclined to discount it and to figure that it was really a method of—it was just an additional factor that was being presented by the Christiana people to indicate that they could run to that if necessary. And although I had no personal knowledge of the legal complications, it sounded like a very clumsy and difficult way to handle it. So I wondered just how serious they really were about it.

And if in fact it was acknowledged not to apply, then I thought, well, that is just one more argument on their side that is eliminated.

Q. To what extent did the three bankers in rendering their views on the previous Friday, June 30, as you heard the matter, lean on the Section 333 liquidation?

A. Well, First Boston gave it no weight at all. Morgan Stanley did give it some weight, apparently. They

[905]

certainly cited it. And of course Kidder, Peabody thought that it was a very viable alternative.

Q. Now, did your negotiating committee agree upon some kind of a proposal to put before Christiana before going into the first negotiating session on July 3rd?

A. We tried to figure over the weekend—and we were in possession of the recommendations of both the legal and financial people—what would be the fairest number that we could come out with that would stand all the tests, both from our own stockholders and the SEC, the

Bureau of Internal Revenue, our own consciences, anything else that we could think that would represent a fair transfer agreement. And we thought that—I particularly thought that in my position as chairman that I would have to come out with a figure which I thought was fair, and unless something new was introduced, that I would stick to it. I didn't want either side to think that I had been pushed, or that we had been pushed just by bargaining techniques. And in arriving at a range there was no black and white answer; it had to be a matter of judgment, and this was a figure that we would have to name and stay with.

And balancing the recommendations made by the financial people, we realized that it was above the Morgan Stanley level on the basis of their knowledge of the facts at the time they put it together, it was of course above Kidder, Peabody's

[906]

and it was below the top of the range that had been recommended by First Boston. But it was I thought the fairest number we could come up with. It was a little higher than any that I had heard recited in the past. I thought it might bother them a little bit, but if they had some time to think it over there was a very good chance that they would not walk away. And I was most anxious to see this go through.

Q. And what is the figure that you came up with going into the first negotiating session?

A. 2.5.

Q. 2.5 percent discount from net asset value?

A. Net asset value.

Q. Was this intended to be a bargaining figure?

A. No, sir.

Q. Was it in fact a bargaining figure?

A. Well, I heard somebody refer to it earlier as an ultimatum. I didn't like to think of it as that. I thought we could justify it. And if you are dealing with trying to set a number in a range, it is always a bargainable number, I suppose, but we thought that in these conditions our strongest position was to figure out what we thought was right and stay with it.

Q. Why didn't you offer a figure at the upper part of the range of your advisor First Boston? The figure you did offer was sort of mid-way in that range, was it not?

[907]

A. Yes. I thought we had stretched it pretty well above the limits that the other two advisors had indicated. I thought it was a little bit above anything that—any history, that we could produce. I thought the number was substantial, and that it was fair. So whether we could have gotten another tenth, I don't know, but we were certainly thinking in tenths.

Q. Would you briefly describe the course of negotiations at your meeting of July 3rd. This is the first negotiating session on the Monday.

A. Well, after the usual pleasantries, Mr. Shapiro opened with the comment to the other side or the question to the other side whether they still attached any value to the ultimate solution to the problem, and after some scrambling they said no. And that cleared the air on that.

And then I don't remember just the exact sequence, but everybody seemed to look to me to make some sort of a comment, and I tried to outline the mental processes we had been through and to justify in the eyes of everybody there a discount of 2.5.

Q. What was the reaction to your proposal of 2.5 from the negotiating committee of Christiana?

A. Well, they seemed to regard it as high, and they cited the Delaware Realty settlement, they cited all the other information that has been brought out during this testimony

[908]

as to lower rates. And I think that they finally left it that they would have to go off and think about it, and the meeting broke up on that—with that understanding. Oh, of course there was considerable discussion following that of all the other points that are involved, in the treatment of preferred stockholders, the difficulties with the bank, the difficulties with the newspaper. But they were all relatively—they were great points to discuss but they really didn't make or break the transaction.

Q. Did Christiana make any counter-offer at that meeting?

A. Not a serious one that I regarded as serious. They were obviously thinking in the one-and-a-half range.

Q. Did you recede from your 2½ percent discount figure?

A. No, sir.

Q. The next meeting appears to have been on Thursday, July 6th. Do you recall that?

A. I do.

Q. Would you tell us briefly the substance of that meeting?

A. Well, between the two meetings we had had a meeting of the executive committee and Mr. Shapiro and I reported to the executive committee in full detail—this is the executive committee absent Irenee du Pont—the progress of the negotiations. And this is a customary practice with us. Make sure that all the other men at that table had a

[909]

chance to think it over and to give us any advice or instructions or help that they could.

There was no alternatives, no suggestions made that would lead us to change our position, and so we then returned to the July 6th meeting with the satisfaction of knowing that that group was strongly behind us.

Q. And then at the July 6th meeting when you were across the table from the Christiana negotiators what transferred?

A. Well, the Christiana people as I recall asked us to explain once again how we had arrived at our numbers, which we tried to do, and that was largely a repetition. There were no new factors. They then suggested that two percent was really as high as they thought they should go. And we left the room, as I recall or they did—I don't remember which it was—and we checked it over some more and decided, no, there was nothing had been introduced that would cause us to change our position. We returned and told them that, and after considerable debate among themselves they indicated that they would recommend it to their board.

Q. Was that essentially the end of the negotiations between the two special committees?

A. Yes, sir. With the exception of the other line of—the other series of problems that I have referred to.

Q. Do you recall what considerations were put forward

[910]

by the Christiana people in support of two percent rather than the 2½ percent?

What, by the way, is the difference in dollars between 2 percent and 2½ percent in this transaction?

A. Well, I can work it by proportion, I guess. It ought to be a half of—it is 25 percent of the $55 million.

Q. Why, if you recall, were they pursuing the 2 percent discount?

A. Well, I think they stuck to that because that had been the top of the range that Morgan Stanley had come in with, and it was above their 1½ figure dating back to Delaware Realty, and it exceeded the 1.7 that Kidder, Peabody had originally recommended as a top.

Q. Now, sir, you have related that at the time negotiations commenced on July 3rd both negotiating teams were fully advised as to the views of the three banking groups. Is that correct?

A. On July 3rd.

Q. Yes. When you commenced your negotiations.

A. They were advised, yes.

Q. On June 30th, the three bankers each laid down what his views were.

A. That is right.

Q. So you knew what Christiana had been advised by Kidder, Peabody, and Christiana knew what you had been advised

[911]

by First Boston. And both of you knew what Morgan had advised.

Is that a normal procedure, in your experience: that both parties to the bargain will be advised of what their financial consultants have told them?

A. No, I don't think it is. I think it is quite unusual, but I think this was an unusual transaction.

Q. Why were those arrangements?

A. In order that everything could be absolutely on top of the board.

Q. Did you have in mind the requirements of the Investment Company Act of 1940 among other things?

A. I have in mind the Investment Company Act, 250,000 stockholders, and our general public, yes, indeed.

Q. Have you discussed the terms of the merger with any of the directors or major stockholders of Christiana during the course of negotiations, or since?

A. No, sir.

Q. Have any of the directors or major stockholders of Christiana in any way suggested to you other than through the special negotiating sessions what the desirable terms to Christiana would be?

A. Never.

Q. In your judgment are the terms that have been agreed upon for the merger fair and reasonable to the du Pont Company and to the shareholders of du Pont other than

[912]

Christiana?

A. I think they are fair and reasonable to all parties.

Q. Have you in negotiating this merger on behalf of du Pont been motivated in any respect by a desire to benefit the Christiana shareholders?

A. Not at all.

Mr. Gribbon: That concludes the direct examination, Your Honor.

Judge Ullman: Very well. We will suspend until 10:00 o'clock tomorrow morning for cross-examination.

(Whereupon, at 4:50 p.m., hearing in the above-entitled matter was adjourned, to reconvene on Tuesday, February 13, 1973, at 10:00 a.m.)

[913]

BEFORE THE
SECURITIES AND EXCHANGE COMMISSION

—

File No. 3-3928

—

In the Matter of
CHRISTIANA SECURITIES COMPANY
E. I. DU PONT DE NEMOURS AND COMPANY
Wilmington, Delaware, 19898

(812-3224)

Investment Company Act of 1940

—

Hearing Room 876
Securities and Exchange Commission
500 North Capitol Street
Washington, D. C.

Tuesday, February 13, 1972

Hearing in the above-entitled matter met, pursuant to adjournment, at 10:00 a.m.,

BEFORE:

SIDNEY ULLMAN, Administrative Law Judge.

APPEARANCES:

(As heretofore noted)

[914]

PROCEEDINGS.

Judge Ullman: The hearing will please come to order.

I believe we are ready for commencement of cross-examination of Mr. McCoy.

Mr. Gribbon: Yes, Your Honor.

Whereupon,

CHARLES B. McCOY

resumed the witness stand, and, upon examination testified further as follows:

Judge Ullman: Mr. Collins, do you have cross-examination, sir?

Mr. Collins: Yes, Your Honor.

CROSS-EXAMINATION.

By Mr. Collins:

Q. Mr. McCoy, going back to the time that you received the letter of April the 20th, I believe it was, from Mr. du Pont, suggesting the possibility of a merger—going back to that time, I understand that you went about selecting a negotiating committee to represent du Pont. Is that correct, sir?

A. Yes, sir.

Q. Now, in going over in your mind what people would be on that committee, did you give any thought to the fact that you would be negotiating with Christiana, that was the

[915]

essence of the negotiation? Now, did you consider the fact that you did have outside directors on the board?

A. That's correct.

Q. Now, did you consider the fact the standing in the business community of these outside directors was essentially not tied up with their career with du Pont?

A. Did I consider that?

Q. Yes, sir.

A. I recognized that.

Q. Now, did you recognize that the standing in the business community of the other directors was essentially tied to their contributions to du Pont as well as the recognition of these contributions by du Pont?

A. I recognized that the other directors are just as good, straightforward citizens as any in or out directors. I don't see any distinction at all.

Q. At the annual stockholders' meeting held the previous year, that is, the annual stockholders' meeting that was held in the calendar year 1971, would it have been possible for Christiana Securities Company to vote its stock against the election of any particular director?

A. I believe so.

Q. Now, assuming that in that 1971 stockholders' election that Christiana had voted its stock against the election of a particular director, and assuming further that

[916]

despite that vote the director had in fact been elected, do you believe that it would have been reasonable to suppose that that particular director would have been re-nominated by the board for election in the following year?

A. I think it is entirely possible.

Q. Your answer, sir, is that it is entirely possible. Would you say that it is entirely probable that he would have been re-nominated?

A. Oh, I can't speculate on a thing like that.

Q. Now, I understand that you suggested to the executive committee that Mr. Shapiro and you would comprise the negotiating committee. Is that correct?

A. That's correct.

Q. Now, did the executive committee in considering your suggestion suggest any other names, or did they simply accept your recommendation as such?

A. My recollection is that there was some consideration given. No other names seriously mentioned. And that they were unanimous in support of this selection.

Q. Then I understand that Mr. Shapiro and you contacted The First Boston Corporation with an idea that it would give financial advice to du Pont in the proposed merger. Is that correct?

A. No, Mr. Shapiro and I did not contact them.

• • •

[920]

• • •

A. No, if the letter is readable I don't compare the —complain about either the style or the size of the print.

Q. Mr. McCoy, I did not ask you whether you complained about the style. I asked you whether you were aware of the fact that the size of the print in your letter was larger than the size of the print in the SEC notice.

A. I was not aware of that.

Q. Considering the letter itself, as well as the enclosure which it contained, do you believe that that was fair and reasonable advice to your stockholders?

A. I do.

Q. Now, Mr. McCoy, referring to a letter from The First Boston Corporation dated July the 6th, 1972, which is I believe du Pont Exhibit No. 4.

At the bottom of the first page of that letter, I believe there is a statement by The First Boston that du Pont had indicated that one of the principal advantages to du Pont in this proposed merger is the fact that in the past a number of business decisions of the du Pont Company had been impeded and delayed by reason of regulatory requirements. Is that correct, sir?

A. We have cited that as one of the problems, yes.

Q. Now, can you put a dollar value on that advantage?

A. No, sir, I cannot.

[921]

Q. Can you tell me whether these business decisions that had been impeded and delayed—were they very serious business decisions?

A. Well, that is a relative thing. At the time they always seemed serious. I wouldn't say that they were of earthshaking importance. They usually had to do with agreements of one kind or another that might be developing with affiliated companies.

Q. Do you believe that that delay cost the du Pont Company any money? Any profits?

A. I hope not.

Q. In looking at your obligation as a director to the stockholders of du Pont, do you believe that you have the same obligation to all stockholders?

A. I have the obligation to do my utmost to manage the du Pont Company to the best long-term interests of all of its stockholders.

Q. If I were to ask you to assume—and I am not asking you to concede that there is a controlling stockholder, but if you were a director of a corporation where there was a controlling stockholder, would you have the same obligation toward that controlling stockholder as toward minority stockholders?

A. In my own conscience I certainly would.

Q. The same obligation toward both?

[922]

A. It would be no different for one than the other.

Q. Now, as you sat at the negotiating table with Mr. Shapiro and the representatives of Christiana, did you

feel that it was your duty to get what you thought was best for the du Pont Company and its stockholders, or did you believe that it was your duty to get what the stockholders themselves would deem best for the company and themselves?

A. I believe it was my duty to negotiate a plan which I would recommend to all stockholders as being in their best long-term interest.

Q. Then I understand you to say that you negotiated for such terms that you thought best for the company and its stockholders?

A. That is right. Within the best obtainable advice.

Q. And I distinguish that from negotiating for such terms as what you believed the stockholders themselves would have deemed best.

A. Well, I think it is up to me to express my opinion, and then they can make their own judgments.

Q. Now, at the negotiation table the Christiana people had their experts and they were pushing their views as to what would be best for their financial interest. Is that correct?

A. I am sure they were.

Q. Now, how did you regard your position? Were you

[923]

primarily representing the non-Christiana stockholders and the company, or were you primarily representing the company and all the stockholders, including Christiana?

A. I had to represent all stockholders.

Q. Well, then, at the negotiation table was there anyone representing the non-Christiana stockholders alone?

A. Mr. Shapiro and I were their representatives.

Q. Looking at the proposed merger on the terms that had been advanced by the applicants, do you say that the greatest gain to the du Pont Company and its stockholders is the dispersal of this block of stock held by the Christiana Company?

A. I believe that is the most important feature of it to the du Pont Company, yes, sir.

Q. Do you believe that this advantage can be measured in terms of dollars?

A. I do not.

Q. Would it be accurate to say that you regard the discount, the increase in earnings of some 6 or 7 cents a share and the increase in the book value of some $1.25 per share as incidental benefits, to use Mr. Shapiro's words I believe fringe benefits?

A. Well, I don't regard those sums as trivial, but I don't believe that those sums determine the advantages to the company. I think they are only part of it,

• • •

[930]

• • •

Q. Certainly in the du Pont situation as it stands there were prima facie possible conflicts of interest, were there not? In dealings between Christiana and du Pont?

A. In a bargain between the two, yes, indeed, I should think there could be. I don't think there is in the long run, because I think that a Christiana stockholder can't help himself if his route to it is to destroy the du Pont Company.

Q. Well, now, isn't it true that as the Christiana influence as a unit abates the influence of management, presumably in the interest of all the company, increases, would you say?

A. I don't understand the question.

Mr. Murtaugh: Would you read the question? Maybe he could understand it. I thought it was fairly clear.

(Question read.)

The Witness: I still—I am sorry, I don't understand it.

By Mr. Murtaugh:

Q. Well, if we can say that Christiana presents a threat to the company because of future abuse, the abatement of that threat will increase the power of the next power center which I presume was management, or maybe that is the

[931]

power center now. But it will abate the threat at least. Isn't that correct?

A. The abatement of—the dispersal of Christiana——

Q. Yes. Will make Christiana less influential.

A. Will remove the potential of problems that might arise because there is a block of stock that can either be mismanaged or dispersed into unfriendly hands.

Q. Intrinsically—inevitably, if you disperse a power center you enhance the power of management in this picture, don't you? Outside of Christiana?

A. Well, I think that so far the management has no reason to be concerned about lack of power. The management has had the power.

Q. But there is less chance of them losing it if there is dispersal of shares. Is that correct?

A. I think they lose it only if they behave in such a way that the stockholders want to remove them or put somebody else in.

Q. Well, I understand that. But the likelihood of Christiana being an influence or an important voting block is dispersed and that leaves the management without that particular threat, either your management or successive managements.

A. Well, I don't—that as it is diminished in size I suppose represents a smaller unit of the vote in one piece.

[932]

But I don't——

Q. You don't think it is seemly to admit that the power of yours and future managements in conducting the company will be less impeded if there is a dispersal?

A. I don't think, for instance, in my case it makes the least bit of difference whether Christiana goes on or doesn't. I am going to be around for a little over a year, maybe, and my interest in the du Pont Company is that they do the very best after I leave as a reflection of whether or not I did my job, let alone my financial interest in it.

Q. Yes, I understand that.

A. And so it——

Q. Let's suppose that—take Mr. Shapiro. He is a relatively young man. He will be here for quite awhile, I presume.

A. Well, I hope so.

Q. Is it to his interest to make management more central in the election of directors?

A. That reaction is so foreign to our situation that I just—I don't even understand it.

Q. You don't?

A. No, sir.

Q. You don't think that—have you ever read in the papers about management taking moves to strengthen its hand, say when a raid comes up?

[933]

A. I read novels, I read all sorts of things that don't really have much application to true life and how business is run.

Q. Well, you read in the papers about counter-moves by management when blocks of stock are moved?

Mr. Gribbon: Objection, Your Honor. It is just getting argumentative.

Mr. Murtaugh: I just wanted to get——

Judge Ullman: I will allow Mr. Murtaugh to proceed to the end of this point if he wants, if there is anything further, sir.

By Mr. Murtaugh:

Q. Well, I think that—I read in the papers constantly, especially in the last two years, of people acquiring blocks of stock, maybe not quite as big as Christiana, and threatening management. Don't you read those sort of instances?

A. I certainly do, yes.

Q. And that could be a possible use of Christiana, couldn't it?

A. I think it could be.

Q. Yes. And the elimination of that is a benefit for the company through the management, isn't that—if the management is a good one. Isn't that correct?

A. If they substituted an inferior management I think

[934]

it would be a very bad thing.

Q. Yes. Thank you.

Now, with respect to your dealings with First Boston Corporation, you said to the best of your knowledge you had never had any previous dealings. Is that correct?

A. Yes, sir.

Q. Now, you said that they came down for sort of a visit to present their views at a sort of social luncheon and got to know each other and that was all that was involved in that first visit.

A. General business conversation.

Q. Now, the next question is, to your knowledge did any of your advisors either within the du Pont or without attempt to indicate to First Boston how they should come out on this problem? And you answered I should certainly think not. That's correct, isn't it?

A. To the best of my knowledge, they certainly did not.

Q. Now, I hand you herewith an instrument which is marked Division's Exhibit 1 in evidence.

If you will look at page 2, you will see that you and Mr. Shapiro signed the covering letter.

A. Yes, sir.

Q. And the following pages contain a good deal of data which you enclosed with your letter which is—I guess comes from Covington and Burling.

* * *

[941]

Q. * * * been a little more objective or attempted to take some of the advantage of a deal which requires two sides and which has great advantage for one and very modest advantages for another? Do you think that is an improper thing to do?

A. I think that we made a very good deal for the du Pont stockholders.

Q. That isn't quite my question.

A. Well, I don't know whether anybody else would have made a different one or would have gone about it in a different way.

Q. You felt you had a responsibility to Christiana as a shareholder as well as to the non-Christiana shareholders of du Pont, didn't you?

A. I did.

Q. Does that disable you somewhat in a bargaining situation, in your opinion?

A. To the extent that I thought it made it absolutely essential to get outside advice, yes.

Q. Now, in getting the outside advice you couldn't eliminate your personal responsibility as president, director, or member of the special committee, could you?

A. No, sir.

Q. You couldn't pass off to them the responsibility that you fundamentally have by virtue of the duties of your position. Is that correct?

[965]

° ° °
° ° °

By Mr. Anderson:

Q. And was it by design that you intentionally did not discuss this matter with Mr. Irenee du Pont, because of a possible conflict between du Pont and Christiana interests?

A. I think it was just a natural thing to do. I don't know if I had any——

Q. Did you have at any time the feeling, Mr. McCoy, that a higher discount might be advisable but that the precedents seemed to go against your pushing for a higher discount from the Christiana Securities Company?

A. No, I did not.

Q. You were generally aware, were you not, Mr. McCoy, as to what the precedents had held in mergers of roughly this type?

A. As this whole thing has developed I have certainly learned more about it. I had no idea before it started other than I think I picked up a note in the paper one time. But I had never made a study of it.

I didn't have any informed opinion.

Q. During the process of the pre-negotiating period did you then become informed that the precedents seemed to say that this type of exchange was usually made at net asset value plus or minus a small discount or premium?

A. That is right.

[966]

Q. If the precedents had said that this type of exchange is usually made at net asset value plus or minus a more substantial premium, would that have been an influence on you to attempt to get a higher discount from Christiana?

A. If that was consistent with the recommendations of the legal financial advisors I would have.

Q. Was it ever brought to your attention, Mr. McCoy, that alternatives might have existed in the SEC precedents whereby the company being merged out of existence might have had a way to realize its net asset value?

A. I don't remember specific instances, no.

Q. I believe you testified yesterday, Mr. McCoy, that no influence was brought to bear by du Pont upon either its investment bankers, First Boston or Morgan Stanley, prior to the June 30th meeting. I think you said there was no influence at any time. My question is, was any influence brought to bear on the investment bankers after they gave their oral reports, which I think was approximately June 30th.

A. Certainly not to my knowledge. I certainly would think not.

Q. Were they given any responses to their oral reports at that meeting which I believe was June 30th?

A. The June 30th meeting, no, no oral responses.

Q. They simply presented their recommendations and

[967]

sat down.

A. That is right.

Mr. Anderson: I have no further questions.

Judge Ullman: Is there any redirect examination?

Mr. Gribbon: One brief question.

RE-DIRECT EXAMINATION.

By Mr. Gribbon:

Q. That document in front of you, Mr. McCoy, I believe has been in evidence as Collins Exhibit 1. And reference has been made to the last paragraph of your letter to the stockholders dated October 4, 1972, and in particular to the first sentence of that paragraph which states that stockholders are not required to take any action with respect to the proposed merger.

Do you recall any discussion about that particular portion of the letter at or about the time it was sent out?

A. I believe that there was a discussion.

Q. What was the reason for that particular language?

A. Well, it was to convey the fact that despite that it was being sent out.

Q. Was there any concern about inquiries from stockholders?

A. None at all.

Q. Did you have any part in preparing the attachment to that letter?

[968]

A. No, sir.

Q. This is precisely as the SEC issued its order, is it not?

A. Well, I would certainly hope so.

Q. You certainly didn't attempt to editorialize or change it in any way.

A. No, sir.

Mr. Gribbon: No further questions, Your Honor.

Judge Ullman: If there is nothing further, you are excused, sir.

The Witness: Thank you.

(Witness excused.)

Judge Ullman: Off the record.

(Discussion off the record.)

Judge Ullman: On the record.

Mr. Broderick, you have some documents that you would like to introduce?

Mr. Broderick: Yes, sir.

The first one which I will ask the Reporter to mark as Christiana Exhibit 4 is headed "Christiana Securities Company, Federal Income Tax Basis to Present Stockholders of Christiana Securities Company Common Stock." As I said, it was with agreement of counsel for du Pont and counsel for Division that this will be moved in evidence and received in evidence.

• • •

[983]

• • •

Mr. Murtaugh: I had thought there was to be a witness here who had the bases of some of these shares. I am looking at page 3 of my application. I would like to get the bases—the answer to Questions E and F specifically. There is some reference in some of the filings to the fact that some of these recently deceased persons have bases which are higher than the current market, in which event, of course, the idea of not to sell because of tax considerations would not be pertinent. I think I should have those to make my own—construct my own table if I can't get it from the people that I mentioned of that category.

Now, to go on to complete the thing, I—

Judge Ullman: Specifically what are you requesting?

Mr. Murtaugh: I am requesting the bases—there is information about bases here. I am requesting specific bases as to everybody that held over 5,000 shares who died in the last ten years, if they have the bases. I am requesting information on them. This is the large group—

[984]

this is the group of large shareholders.

Mr. Broderick: I don't see any relevancy to that, Your Honor, at all.

We have put into this record a tax basis study which shows the current tax basis for a very large number of Christiana shareholders, some 9 million shares out of 11-million-7. And I just don't see the relevance in this proceeding to what the tax basis may have been for a Christiana shareholder who may have died ten years ago or five years ago.

Mr. Murtaugh: Well, if he is holding on to his shares —let's see, now. This is the evidence you are referring to.

Mr. Broderick: That's right.

Judge Ullman: I hope he is not holding on to his shares.

(Laughter.)

Judge Ullman: Please proceed, Mr. Murtaugh. You wanted to continue.

Mr. Murtaugh: Yes. Well, there are some very, very large holders who died since the General Motors decision that was listed on that decree there in 1962. And since the market was generally higher and higher since that time, why, I would like to identify out who these people are.

And one of them is Irénée du Pont, Sr., one of them is Henry

[985]

du Pont who was a very large holder, five percent in my case that I cited. That sort of data which I thought should have been more thoroughly analyzed for the purpose of seeking the question of the liability of shares being put on the market. I would like information about that, and I would consider discovery if I am allowed that privilege, which I understand is a pending question.

So that Your Honor can have the whole thing, I will proceed down the list.

If you will see No. G, I was given the opinions, reports and data of Morgan Stanley and Merrill Lynch, and Your Honor has decided not to introduce—not to let it be introduced because of an objection to the Merrill Lynch material relating to the Christiana-Government suit now pending in Delaware. But the suit itself, which is a pending suit mentioned in the application and specially treated, is a very relevant thing because of the fact that it is pending and mentioned in the application, and secondly because I intend to pursue the point which I have already made that the applicant—I mean Christiana is pursuing inconsistent courses in the different governmental bodies.

Now, H, I wanted material other than that described in G, that is, other than from the financial advisors, furnished to the government in connection with matters described in G.

[986]

Now, the material in the record is rife with statements about the status of that claim in order to discuss how to handle it with reference to this application; and I presume, but I don't know, that there is material there who will

make contentions there inconsistent with Christiana's present contentions, and recognizing that the large amount of shares, two-and-a-half, one-and-three-quarters and two-and-a-half received of outstanding General Motors shares received in 1962, '64 and '65 are entitled to a substantial discount because of their blockage or market impact effect at the time that they were received.

Mr. Gribbon: Your Honor, I respectfully ask that Mr. Murtaugh be admonished to put forth his requests and not put forth his contentions which he has done for the last ten days. He is simply prolonging the record here.

Mr. Murtaugh: I am explaining my hope for a ruling from His Honor. I have a motion for a continuance which I have had pending since the start of this litigation, and this is speaking to that, whether His Honor is going to give me that time in order to take necessary steps to procure this information, unless it will be volunteered.

Then I got I, J, K, L—I asked for copies of all communications in M, on the top of page 7, to Christiana shareholders about the du Pont merger and the restrictions on shares to conform to the security. Now, I have been furnished

[987]

with an agreement which hasn't been finalized yet as to the restrictions on shares. Do you object to my putting this in with the understanding that it isn't the present agreement?

Mr. Gribbon: No, if you will do it promptly and get it in.

Mr. Murtaugh: Yes. I will ask to introduce that. It is the presently developed form but not the finalized form of the registration agreement which will sever Christiana shareholders who are affiliated.

I have asked for all material relating to selling intentions of Christiana shareholders or selling schedules of proposed broker sales or private placements. I assume that the record shows there is no such material. Is that a fair statement?

Mr. Broderick: That's right, because the record reflects that there is no present intention on behalf of Christiana shareholders to sell any of their stock.

Judge Ullman: Mr. Murtaugh has offered as Murtaugh Exhibit 15 a draft dated December 15, 1972, of an agreement between du Pont and Christiana with respect to registration of shares.

Mr. Murtaugh: Registration and other methods of sale of the new shares of related persons.

Judge Ullman: Is there any objection to the receipt of that document?

[988]

Mr. Broderick: No, sir.

Mr. Anderson: Did I understand this not to be an up-to-date document? There is a more recent document than this one?

Mr. Murtaugh: This is dated December 15th and it is the most recent one they have, I understand, but it is not represented to be the final one.

Mr. Anderson: No objection.

Judge Ullman: It is received.

(Murtaugh Exhibit No. 15 was marked for identification and received into evidence.)

Mr. Murtaugh: Finally, I have asked for the mailing address of each director of du Pont and Christiana, and I haven't received that as yet. I want to ask, of course, per-

mission to address interrogatories to them for the purpose of not taking the time of the court to determine on different circumstances here particularly the effect of—I mean the amount of discussion of market impact that each of them were exposed to and the extent to which they were exposed to that issue.

Mr. Gribbon: Your Honor, on behalf of du Pont, we object to the issuance of any interrogatory particularly at this stage of the litigation.

As far as the address of the directors is concerned,

[989]

Mr. Murtaugh has been advised that they can be reached in care of the du Pont Company.

His application for interrogatories is defective under Rule 15, and in addition, anything he would obtain through the interrogatories on the point he made would be entirely cumulative. There has been ample evidence here from the two directors of du Pont particularly responsible for this matter as to the extent of the discussion before both the executive committee and the board of directors. Anything further would simply be a delaying tactic.

Mr. Murtaugh: As far as I—

Mr. Broderick: On behalf of Christiana, I concur.

Judge Ullman: The request is denied. The objection is sustained.

We have some prior requests which Mr. Murtaugh has indicated were not complied with and some which were complied with. I am certainly not in a position to evaluate them, but I will listen to counsel with respect to a response to what Mr. Murtaugh has said he requested and did not receive. And I presume that this is within Mr.

Murtaugh's request for a continuance of this proceeding until the requested information is received.

Mr. Broderick: Well, with respect to Point E of his request, I have indicated earlier that there is now in this record a tax basis study showing the tax basis for

[990]

approximately 9 million shares of Christiana common stock. Mr. Murtaugh, if I understand him corectly, is asking for the tax basis of certain people, large Christiana shareholders who may have died within the last ten years. That information was not furnished to him, and I see absolutely no relevancy of that information to this type of proceeding and the issues that have been raised in this case.

As far as his request for so-called other materials that may have been submitted to the government in the tax refund case, in this particular proceeding Mr. Murtaugh has introduced into evidence the complaint filed by Christiana against the government in the District Court for Delaware, he has the Morgan Stanley reports. In addition to that he has been permitted to put into evidence excerpts from the testimony in the case in Chicago, excerpts from the testimony before various Congressional committees. It seems to me that there is more than enough evidence concerning those points in this record to enable Mr. Murtaugh to make any argument he so desires.

Judge Ullman: I will deny Mr. Murtaugh's request for any further information at this time. And insofar as Mr. Murtaugh has moved for a continuation of the proceeding, unless I hear something entirely new from Mr. Murtaugh at this time, that motion, too, is denied.

• • •

[994]

• • •

Judge Ullman: We have come to a point where I will ask whether an initial decision is desired or is waived, and that is a matter for the parties to the proceeding to determine.

Mr. Broderick: On behalf of Christiana, Your Honor, we are agreeable to waiving an initial decision.

Judge Ullman: Mr. Gribbon?

Mr. Gribbon: Du Pont similarly, solely for the purpose of expediting the ultimate consideration of the matter.

Mr. Osheroff: Yes, the Division agrees, Your Honor.

Judge Ullman: Then an initial decision will be waived in this proceeding.

How much time do the parties want for preparation of their post-hearing documents?

Mr. Broderick: I think, Your Honor, along the line of some discussions yesterday, we would prefer thirty days within which to file briefs on behalf of the applicants. And I would suggest that the Division and participants be given an additional thirty days following our filing, with the right to the applicants to file reply briefs within fifteen days if they so desire.

• • •

APPLICANTS' JOINT EXHIBIT NO. 1A.

MORGAN STANLEY & CO.
140 Broadway
New York, N. Y. 10005

CONFIDENTIAL

July 7, 1972

Messrs. Charles B. McCoy and
Irving S. Shapiro, Directors
E. I. du Pont de Nemours and Company
1007 Market Street
Wilmington, Delaware 19898

Messrs. Edward B. du Pont and
A. Felix du Pont, Directors
Christiana Securities Company
Du Pont Building
Wilmington, Delaware 19898

Dear Sirs:

You have requested our views with respect to the financial basis for the proposed merger of Christiana Securities Company (Christiana) into E. I. du Pont de Nemours and Company (Du Pont) including an appropriate range of ratios of exchange of Du Pont common stock for Christiana common stock and the terms of exchange of Christiana preferred stock. In arriving at such views we have relied upon the statements set forth in your letter of June 6, 1972 and the "List of Documents for Financial Advisor" which have been transmitted to us. We have retained Messrs. Davis Polk & Wardwell and Messrs. Skadden, Arps, Slate, Meagher & Flom as our

Counsel with respect to the legal aspects of various questions which arose during the course of our investigation.

We understand that the principal procedural steps which have been or will be followed if the proposed merger is consummated are as follows:

1. We understand that, from time to time, Du Pont and Christiana have considered the desirability and feasibility of merger, and in a letter dated April 20, 1972 Christiana initiated the present merger discussions with Du Pont.

2. The Boards of Directors of Du Pont and Christiana have each designated a committee, composed of the persons to whom this letter is addressed, to negotiate the merger.

3. The First Boston Corporation, as advisors to Du Pont; Kidder, Peabody & Co. Incorporated as advisors to Christiana; and we, as advisors to Du Pont and Christiana, will render opinions as to the financial basis for the proposed transaction including a range of exchange ratios for Christiana common stock and an exchange ratio for Christiana preferred stock.

4. Subsequently, the respective negotiating committees will meet with a view to determining the definitive terms of merger including a specific exchange ratio of Du Pont common stock for Christiana common stock and a specific exchange ratio of Du Pont common stock for Christiana preferred stock. The Boards of Directors will then vote upon the merger plan.

5. Assuming approval of the two boards, the definitive merger plan will be announced to the public and submitted to the Securities and Exchange Commission for approval under Section 17 of the Investment Company Act of 1940. An application will also be submitted to the Securities and Exchange Commission for de-registration of Christiana under such Act.

6. An application will be submitted to, and it is expected that a ruling will subsequently be obtained from, the Internal Revenue Service that the merger will be considered a tax-free transaction.

7. Following receipt of approval of the proposed transaction by the Securities and Exchange Commission, proxy statements will be mailed to stockholders of both companies. The stockholders of both companies will subsequently meet and vote on the proposed merger subject to securing a favorable Internal Revenue Service ruling.

8. Following a favorable vote, dissenting Christiana preferred stockholders will have the right to seek appraisal of their holdings in court. Payment to any such dissenting holders would be in the form of cash. Under the law of the State of Delaware, common stockholders of Du Pont and Christiana will not be entitled to seek appraisal of their holdings.

9. The merger will be consummated by an exchange of common stock of Du Pont for preferred stock and common stock of Christiana.

10. Following consummation of the merger Du Pont will retire the common and preferred stock of Du Pont held by Christiana.

11. Arrangements will be made so that the $21.0 million Federal tax claim of Christiana (including accrued interest) may be settled at a later date and the sum of $1,000,000 of Christiana's funds set aside for pursuit of the claim. Du Pont common stock equivalent

to the proceeds of the claim, if any, together with any balance of said $1,000,000, subsequently will be distributed to holders of Christiana common stock of record for the merger.

12. After the merger Du Pont intends to dispose of the interests in Wilmington Trust Company and The News-Journal Company presently held by Christiana.

In reaching a conclusion as to an appropriate range of exchange ratios, we have reviewed current market conditions and other factors which we consider pertinent and which will be discussed further in this letter. We are, of course, familiar with Du Pont and Christiana and we have advised both companies on financial matters for a number of years. Such advice has included testimony as to the effects of the divestiture of General Motors Corporation common stock formerly held by Du Pont and by Christiana; recommendations as to appropriate terms for the merger of Delaware Realty and Investment Company (Delaware Realty) and Christiana; and the appropriate terms for exchanges involving Christiana common stock and General Motors common stock and Christiana common stock and Hercules Powder Company common stock. Morgan Stanley & Co. has managed a number of large registered secondary offerings of General Motors common stock sold by Christiana and by stockholders of Christiana and Du Pont, and over the years has executed transactions in the stocks of Christiana and Du Pont, including private placements and secondary offerings of large blocks. We are currently advising Christiana in connection with the Federal tax claim arising out of the General Motors divestiture and from time to time we have advised Du Pont on long-range financing plans. Morgan Stanley & Co. has assisted in raising capital for Du Pont in the past and last

year raised $30,000,000 for Du Pont Overseas Finance N. V. through Morgan & Cie International S. A., our European affiliate.

Exhibit 1 and Exhibit 2 are Memoranda of Fact which describe certain aspects of the operations of and set forth financial data regarding Du Pont and Christiana, respectively. These memoranda have been compiled from the material furnished to us.

Since Christiana is an investment company the assets of which consist almost entirely of marketable securities, we believe it is appropriate to consider its value in terms of the market value of its underlying investments which is the normal way of valuing investment company common stock. In determining the underlying net asset value of Christiana and the market value of Du Pont we have used market prices and, where these are not available, estimated values as of May 31, 1972. Our views set forth the principles which we believe are valid in arriving at appropriate exchange ratios for the proposed merger. Prior to the signing of a merger agreement the terms should be reviewed in order to reflect changes subsequent to May 31 in prices or values or in any other conditions or circumstances which might materially affect the merger.

I. Considerations Regarding a Merger

Advantages and Disadvantages of a Merger

From the point of view of Christiana common stockholders, a merger with Du Pont offers a number of advantages.

1. Assuming the merger were consummated through an exchange for shares of Du Pont common stock having a market value equal to or slightly below the underlying net asset value of Christiana common stock, then Christiana common stockholders

would realize an immediate increase in the market value of their securities. Christiana common stock has consistently sold at a discount from net asset value. As shown in Exhibit 9, such discounts at selected recent dates have been as high as 28%. On April 28, 1972, just prior to the announcement of the proposed merger, the discount was approximately 23%. This discount was equivalent to $44.55 per share, or approximately $521.7 million when applied to all outstanding shares of Christiana common stock.

2. By exchanging shares of Christiana, which shares are traded in limited amounts in the over-the-counter market, for shares of Du Pont, which shares have a broad market on the New York Stock Exchange and more limited markets on regional and other exchanges, Christiana stockholders would significantly increase the marketability of their holdings. Trading in Du Pont averaged about 10,000 shares to 36,000 shares per day on the New York Stock Exchange in the eight weeks prior to the announcement of the proposed merger, while trading in Christiana averaged about 300 to 1,900 shares during the same period as reported by NASDAQ. In view of the disparity in the trading volumes it has been considerably easier to acquire or dispose of a sizable block of Du Pont common stock than a block of Christiana common stock having a similar value.

3. The merger will eliminate the tax burden now being borne indirectly by the stockholders of Christiana by reason of the payment of Federal income tax by Christiana upon dividends received from its holdings, prior to the distribution of such

dividends to the stockholders of Christiana. Income taxes, principally on dividends received, have cost Christiana $4.8 million to $6.0 million per year during the past several years.

4. The merger would result in the elimination of the operating expenses of Christiana which have amounted to $200,000 to $300,000 during each of the past several years.

A possible disadvantage to Christiana of a merger would be the loss of any benefits which it may derive from being the largest holder, with approximately 28.3% of the outstanding common stock, of Du Pont. It is difficult to place an economic value upon such benefits. It should be noted, however, that from time to time, blocks of shares representing control of major corporations have been sold or exchanged at premiums above the quoted market value of the shares. Such a transaction might possibly take place in a merger of Christiana into a company other than Du Pont. In the case of Christiana, however, the size of the block, the fact that it might not, under certain circumstances, represent effective control and the effect of the United States antitrust laws would appear to make such a transaction unlikely.

From the point of view of Du Pont, a merger with Christiana would offer several advantages.

1. Dispersion of the largest single block of Du Pont common stock which is now voted as a unit, among approximately 6,800 Christiana common and 1,500 Christiana preferred stockholders, should effectively increase the relative voice of Du Pont's other stockholders in the Company's affairs.

2. If the exchange ratio should involve a discount from Christiana's underlying net asset value, then the amount of such discount would represent a monetary advantage to Du Pont common stockholders and a partial reduction in the substantial monetary advantages to be realized by Christiana. We recognize that Du Pont common stockholders must approve the merger terms, and the economic advantage must be significant to them. It should be realized that any such monetary benefit to Du Pont would be shared to the extent of 28.3% by Christiana stockholders as a result of their indirect holdings of Du Pont common stock.

3. Du Pont is considered, under the Investment Company Act of 1940, to be an affiliated person of a registered closed-end investment company. As such it is obliged to seek Securities and Exchange Commission exemptions before entering into certain types of transactions. A merger would free Du Pont from the requirement to seek such exemptions.

4. The addition of a number of new stockholders and the transfer of market activity presently centered in Christiana common stock to Du Pont common stock could broaden somewhat the market for Du Pont shares.

A possible disadvantage to Du Pont of a merger would be that the broader market for Du Pont shares and the elimination of the effective discount might encourage certain Christiana stockholders to dispose of their holdings, thereby depressing the market for Du Pont common stock. However, when the potential capital gains tax liabilities of large Christiana stockholders are taken into account, we do not believe that there will be such disposals as would have a material and lasting impact upon Du Pont's common stock price.

Basis for Negotiations

It is our conclusion that the proper basis for negotiations is the underlying net asset value of Christiana and the degree to which it should be preserved in the definitive exchange ratio. An analysis of the relative advantages to be gained by the two parties also leads us to conclude that a merger which preserves entirely Christiana's underlying net asset value would give relatively greater benefit to Christiana than to Du Pont. In addition, we believe some discount from net asset value is required to provide adequate inducement to Du Pont to participate in the proposed merger. Therefore, in our view, the amount of a discount from underlying net asset value should be the principal issue in negotiations.

Other Mergers of Investment Companies Into Their Operating Affiliates

We have studied data regarding a number of mergers of registered closed-end investment companies or holding companies into their operating company affiliates. Such mergers have occurred frequently in the past. Based on our studies we believe several conclusions may be drawn:

1) Generally, the market values of the investment companies (where a market value existed) were at a discount from the underlying net asset values prior to the merger negotiations. Nevertheless, net asset value rather than market value of the investment companies was regarded as the relevant consideration in determining the exchange ratios.

2) In the instances reviewed by us the acquisitions were consummated at exchange ratios which ranged from a premium over net asset value (as defined in the particular case) to a discount of about 1.8% from net asset value of the acquired company. However, many of such acquisitions were consummated at what appears to be net asset value. The merger of Delaware Realty into Christiana in 1961, which is an important precedent, involved a discount of 1.5% from Delaware Realty's net asset value, but, because of the size of Delaware Realty's holdings of Christiana, the effective discount was approximately 1%.

3) In the case of registered investment companies, the Securities and Exchange Commission found, as required pursuant to Section 17 of the Investment Company Act of 1940, that the merger terms were reasonable and fair and did not involve overreaching on the part of any person concerned.

Treatment of Christiana 7% Preferred Stock in a Merger

The Certificate of Incorporation of Christiana allows redemption of the 7% preferred stock in cases of "dissolution or liquidation" at its par value of $100 per share but provides that redemption should occur at $120 per share. We understand that, in the proposed merger of Christiana and Du Pont, Christiana preferred stockholders would be offered the opportunity to receive Du Pont common stock and that, if they dissent from the merger, they would have the right to seek a court appraisal of the value of their shares. Counsel have informed us that, in such a proceeding, it is probable that the court would award them an

amount equal to or approximating the $120 per share equivalent to redemption price. In light of this fact and the fact that such preferred stockholders would become common stockholders and would also suffer a reduction in dividend income, and because we believe such an offer to be fair under current circumstances, we recommend the merger terms include $120 of Du Pont common stock for each Christiana preferred share.

Expense of Merger

We understand the expenses of the proposed merger are estimated to be $1,500,000, and Counsel informs us that, in general, such expenses would not be deductible for U. S. Federal income tax purposes. In the mergers studied, expenses have been treated in a number of ways. In some cases they have been entirely absorbed by one party while in other instances each party has shared in paying the expenses. For purposes of our calculation of Adjusted Net Asset Value set forth below, we have deducted all estimated expenses of the transaction from Christiana's assets.

Value Realized by Du Pont in a Merger

Since we understand that Du Pont intends to dispose of certain Christiana assets, from the point of view of Du Pont, a merger exchange ratio must take into account the values realizable. Consequently, certain adjustments should be made to arrive at an adjusted net asset value of Christiana. For purposes of this analysis we have defined "Adjusted Net Asset Value" as the value of Christiana's holdings of preferred and common stock of Du Pont, based upon the New York Stock Exchange closing price per share, and as the net value of other Christiana assets realizable by Du Pont less all expenses.

We have assumed that following the merger, Du Pont would dispose of its acquired interests in Wilmington Trust Company and The News-Journal Company but would retire the Du Pont common stock and preferred stock acquired. In selling shares of Wilmington Trust Company and The News-Journal Company it appears that Du Pont would incur certain expenses in connection with disposition and, we understand, would be liable for Federal capital gains tax at the corporate rate of 30% on the difference between Christiana's cost bases and the sale prices. We believe such expenses and taxes should be deducted from Christiana's net asset value in arriving at Adjusted Net Asset Value. The valuation established for the shares of the News-Journal Company has been estimated by Mr. Vincent J. Manno in an appraisal. Because such shares do not have a quoted market we believe that this estimate must be regarded as an approximation.

For purposes of the following analysis we have not included any value for Christiana's Federal tax claim because we are unable to determine what value this claim may have. Furthermore, we have reduced Christiana's "Cash and equivalent" by $1,000,000 which sum, we understand, will be set aside to cover costs of litigation or settlement with respect to the tax claim. We understand that Du Pont common stock equivalent in value to the benefits, if any, arising from the tax claim (together with any amounts remaining of the above-mentioned $1,000,000) would be distributed to Christiana stockholders subsequent to the merger when the tax claim is finally settled.

Under the above assumptions Du Pont would realize the following Adjusted Net Asset Value in a tax-free merger as contemplated:

		Value of Assets (1)		
Shares	*Security or Asset*	*Aggregate*	*Per Share of Christiana Common Stock*	*% of Christiana Adjusted Net Asset Value*
13,417,120	Du Pont, Common (170%)	$2,284,264,680		98.992%
16,256	Du Pont, Preferred (69%)	1,123,696		
69,216	Wilmington Trust Company, Common (40%)	2,820,552		
7,460	The News-Journal Company, Common	24,250,000		
	Cash and equivalent	4,238,875		
Asset value before adjustments		$2,316,697,803		100.398%
	Estimated expenses and capital gains tax payable on sale of Wilmington Trust and News-Journal shares (2)	7,656,820		.333
	Estimated expenses of merger	1,500,000		.065
Adjusted Net Asset Value (3)		$2,307,540,983	—	100.00 %
Less: Christiana 7% Preferred Stock at $120 per share		12,780,000		
Adjusted Net Asset Value available to shareholders of Christiana common stock		$2,294,760,983	$195.96	

Notes:

(1) Amounts exclude the value of Christiana's $21.0 million Federal tax claim.

Market prices for Du Pont common and preferred stock represent the close on the NYSE at May 31, 1972. The market price for Wilmington Trust Company represents the closing bid price in the over-the-counter market at May 31, 1972.

The asset value for The News-Journal Company, provided by Mr. Vincent J. Manno, represents the estimated value realizable in an arms-length transaction between a willing buyer and a willing seller net of expenses and includes $1,260,000 of net quick assets as of April 22, 1972.

Cash and equivalent amount is as of May 1, 1972 and excludes $1,000,000 as provision for litigation of Christiana's Federal tax claim.

(2) Amount shown includes $7,570,300 for estimated Federal capital gains tax liability at the corporate rate of 30% on the difference between sales prices and Christiana's cost bases of $903,592 and $846,107, respectively, for holdings of Wilmington Trust Company and The News-Journal Company and a $86,520 ($1.25 per share) reduction for estimated blockage or costs of sale for Wilmington Trust Company common stock. No provision has been made for Delaware taxation of capital gains.

(3) Any discount (determined by the merger negotiations) from the Adjusted Net Asset Value would be deducted from this amount.

Effect of Various Merger Plans on Du Pont and Christiana

A merger at Adjusted Net Asset Value (no discount) or at some discount would have a number of effects (some of which have already been mentioned) upon the earnings per share, dividends per share and market values of Du Pont and Christiana. Exhibits 10 and 11 hereto set forth exchange ratios involving a range of possible discounts from Christiana's Adjusted Net Asset Value and illustrate the effect of such discounts on Du Pont's earnings per share and aggregate dividend payments and upon Christiana's earnings and dividends per share.

II. Alternatives to Christiana Other Than Merger With Du Pont

In contemplating a possible merger with Du Pont, Christiana might also consider certain other alternative courses of action. As we have noted above, we consider Christiana's merger with another party to be unlikely. In contrast to the situation existing in 1961 when Delaware Realty merged with Christiana, present Federal tax laws make an exchange by Christiana stockholders of their shares for underlying assets highly unattractive. Counsel have informed us that, in the event of such an exchange, Christiana would realize taxable capital gains on the appreciation of its assets over their cost basis, and there would possibly be additional capital gains taxes payable by many of the exchanging stockholders themselves. Liquidation of Christiana under Section 333 of the Internal Revenue Code of 1954 has also been examined as an alternative to follow. While such a course of action might possibly realize for Christiana's stockholders their net asset value at only moderate cost to themselves, Counsel are unable to provide assurance that, for a large proportion of Christiana's stockholders, taxation would not result, and thus make this alternative impractical.

III. Conclusion

In your letter to us of June 6, 1972, you requested that we advise you as to a range of ratios of exchange of Du Pont common stock for Christiana common stock which we consider fair and reasonable to both Du Pont and Christiana stockholders. For purposes of our analysis herein we have considered Christiana's Adjusted Net Asset Value and discounts or premiums in relation thereto. Such views may be converted to definitive share exchange ratios by means of a formula which could be incorporated in the merger agreement.

In light of the foregoing analysis of the proposed merger and in view of the relative advantages of a merger to the two parties, we believe Christiana should offer some financial inducement to DuPont to merge. Furthermore, in consideration of the fact that the valuation of The News-Journal Company included in Christiana's Adjusted Net Asset Value is an approximation, we believe some latitude should be given Du Pont in disposing of this asset without loss. In our opinion, therefore, an exchange ratio which recognizes a discount from Christiana's Adjusted Net Asset Value is appropriate under the circumstances. On the other hand, taking account of the substantial body of precedent for mergers of this type to be accomplished at little or no discount from apparent net asset value, we recommend that a discount in the range of 0.5% to 2.5% would be reasonable and fair to both Du Pont and Christiana and the stockholders of each company and would not represent an overreaching by either party. Assuming that the Christiana preferred stock is redeemed at $120 per share, and based upon a market price of 170¾ for Du

Pont common stock as of May 31, 1972, each share of Christiana common stock would receive from 1.14524 shares to 1.12210 shares of Du Pont common stock at such discounts.

Proceeds of a Tax Claim

We also have been asked to recommend a basis for computing the amount of Du Pont common stock to be distributed to Christiana common stockholders of record for purposes of the merger upon receipt by Du Pont of any payment in settlement of the tax claim of $21.0 million. Neither the amount of any recovery nor the time of any such recovery is known at this time. We believe it is desirable that some method of computing the number of Du Pont common shares to be distributed to the Christiana common stockholders should be decided upon which would result in the Christiana common stockholders receiving, promptly after any payment of the tax claim to Du Pont, shares of Du Pont common stock with a market value at the time closely approximating the dollar amount of the refund. In other words, any change in the market price of Du Pont common stock between the record date for the merger and the time of the receipt of any recovery should neither penalize the Christiana common stockholders nor give them a windfall. We also believe that Du Pont should not be placed in the position of distributing, at the time, Du Pont common stock with a market value either greater or less than the amount of any recovery.

It is our opinion that this can best be arranged by means of a formula which would use the average of the daily mean price of Du Pont common stock on the New York Stock Exchange for the 10 business days preceding the date of receipt of the proceeds of the tax claim.

Very truly yours,

APPLICANTS' JOINT EXHIBIT NO. 1B.

Exhibit 2, p. 6.

Among the principal factors that account for this discount relationship are the reduction in dividend income because of Federal income taxes and expenses payable by Christiana, the large unrealized capital gains and the relatively limited market for Christiana common stock in the over-the-counter market. As contrasted with the ordinary diversified investment company which also customarily sells at a discount, the consideration of possible taxes on gains or losses arising from sales of securities would appear to be of less significance in the case of Christiana, since it has not engaged in sales of portfolio holdings.

Holders of Christiana Common Stock

At May 22, 1972 there were 338 Christiana stockholders who owned 1,000 or more shares of Christiana common stock. These stockholders held 11,183,254 shares or 95.5% of the 11,710,103 shares outstanding as of December 31, 1972 and may be classified, generally, as follows:

	Stockholders with 1000 shares or more at May 22, 1972		
	Number of Stockholders	*Aggregate Shares*	*% of Total*
Men	76	1,718,922	15.4%
Women	65	778,809	6.9
Administrators	64	1,180,223	10.6
Brokers and Nominees	109	6,622,155	59.2
Corporations	12	383,392	3.4
Institutions and Foundations	12	499,753	4.5
Total	338	11,183,254	100.0%

Exhibit 9

CHRISTIANA SECURITIES COMPANY

Net Asset Value Per Share and Discount of Market Price
(Based on Mean)(1)

	Net Assets Excluding Investments			*Investments*								
	Net Current Assets (excl. deferred charges)	*Pfd. Stock (redemption value)*	*Subtotal*	*Du Pont Common (last sale) (13,417,120 shares)*	*Du Pont $4.50 Pfd. (last sale) (16,256 shares)*	*Wilmington Trust Company (bid price) (69,216 shares)*	*The News-Journal Company (Net Asset Value)*	*Subtotal*	*Total*	*Net Asset Value per share (on 11,710,103 shares)*	*Mean Market Price on Christiana*	*Discount of Mean Market Price of Christiana from Net Asset Value*
	(000)	(000)	(000)	(000)	(000)	(000)	(000)	(000)	(000)			
December 31, 1967	$ 8,639	$12,780	$(4,141)	$2,126,614	$1,252	$3,738	$5,400	$2,137,004	$2,132,863	$182.14	153⅛	15.7%
June 30, 1968	10,018	12,780	(2,762)	2,121,582	1,264	3,253	5,700	2,131,799	2,129,037	181.81	148	18.6
December 31, 1968	14,957	12,780	2,177	2,213,825	1,268	3,530	5,700	2,224,323	2,226,500	190.13	167	17.4
June 30, 1969	6,740	12,780	(6,040)	1,762,674	1,187	3,461	6,000	1,773,322	1,767,282	150.92	121	19.8
December 31, 1969	3,572	12,780	(9,208)	1,408,798	1,032	2,838	6,000	1,418,668	1,409,460	120.36	96⅝	19.8
June 30, 1970	5,032	12,780	(7,748)	1,527,875	983	2,665	6,500	1,538,023	1,530,275	130.68	103⅛	20.8
December 31, 1970	3,981	12,780	(8,799)	1,789,508	1,150	2,769	6,300	1,799,727	1,790,928	152.94	113	26.1
June 30, 1971	5,487	12,780	(7,293)	1,868,334	1,114	2,630	6,700	1,878,778	1,871,485	159.82	125⅛	21.5
December 31, 1971	4,398	12,780	(8,382)	1,945,482	1,134	2,613	6,800	1,956,029	1,947,647	166.32	126⅛	23.9
January 31, 1972	4,398	12,780	(8,382)	2,057,851	1,122	2,682	6,800	2,068,481	2,060,099	175.92	132⅛	24.7
February 28, 1972	4,398	12,780	(8,382)	2,173,573	1,162	2,769	6,800	2,184,304	2,175,922	185.82	136⅛	25.5
March 31, 1972	4,398	12,780	(8,382)	2,279,233	1,142	2,786	6,800	2,289,961	2,281,579	194.84	142⅛	26.9
Week ending April 7	5,239	12,780	(7,541)	2,347,996	1,105	2,786	6,800	2,358,687	2,351,146	200.78	144	28.3
April 14	5,239	12,780	(7,541)	2,312,776	1,089	2,821	6,800	2,323,486	2,315,945	197.77	144⅛	26.9
21	5,239	12,780	(7,541)	2,292,650	1,085	2,872	6,800	2,303,407	2,295,866	196.06	147⅛	24.8
28	5,239	12,780	(7,541)	2,257,430	1,101	2,855	6,800	2,268,186	2,260,645	193.05	148⅛	23.1
May 1*	5,239	12,780	(7,541)	2,222,211	1,096	2,838	6,800	2,232,945	2,224,404	190.04	154⅛	18.7
May 5	5,239	12,780	(7,541)	2,193,699	1,093	2,838	6,800	2,204,430	2,196,889	187.61	157	16.3
12	5,239	12,780	(7,541)	2,186,991	1,099	2,769	6,800	2,197,659	2,190,118	187.03	153	18.2
19	5,239	12,780	(7,541)	2,240,659	1,097	2,803	6,800	2,251,359	2,243,818	191.61	157	18.1
26	5,239	12,780	(7,541)	2,294,328	1,134	2,821	6,800	2,305,083	2,297,542	196.20	160⅝	18.2
June 2	5,239	12,780	(7,541)	2,309,422	1,124	2,803	6,800	2,320,149	2,312,608	197.49	156⅜	20.8
9	5,239	12,780	(7,541)	2,227,242	1,138	2,803	6,800	2,237,983	2,230,442	190.47	165	13.4
June 15	5,239	12,780	(7,541)	2,262,462	1,154	2,786	6,800	2,273,202	2,265,661	193.48	165	14.7

NOTE:

(1) Sources for the data used in these calculations from 1967 through 1971 were the Annual Reports of Christiana Securities Company. The preferred stock has for all periods been taken at its liquidating value of $120 per share. For the period January 31 through March 31, 1972, values for net current assets were taken from the December, 1971 Annual Report. From April 7, 1972 through June 9, 1972, Net Current Assets have been calculated on the basis of figures contained in the Memorandum dated May 12, 1972 from the Du Pont Treasurer's Department to C. E. Welch, Assistant General Counsel, a copy of which has been supplied to us. The Federal tax claim (re tax on General Motors divestiture) has been for all periods omitted from the calculations. Values for The News-Journal Company during 1972 have been taken from the December, 1971 Annual Report. Values for Wilmington Trust Company during 1972 have been calculated by multiplying the bid price at the date times the number of shares held by Christiana, which has been assumed to be 69,216. 1972 values for Du Pont Common and Preferred have been calculated by multiplying Christiana's holdings in these two securities (assumed to be 13,417,120 and 16,256 respectively) times the closing price on the date.

* Date of announcement of proposed Christiana Securities Company merger with E. I. du Pont de Nemours and Company.

JOINT EXHIBIT NO. 1C.

MORGAN STANLEY & CO.
140 Broadway
New York, N. Y. 10005

July 7, 1972

Messrs. Charles B. McCoy and
Irving S. Shapiro, Directors
E. I. du Pont de Nemours and Company
1007 Market Street
Wilmington, Delaware 19898

Messrs. Edward B. du Pont and
A. Felix du Pont, Directors
Christiana Securities Company
Du Pont Building
Wilmington, Delaware 19898

Dear Sirs:

At your request we are attaching to this letter a copy of our final memorandum setting forth our considerations and recommendations relating to the proposed merger of Christiana Securities Company and E. I. du Pont de Nemours and Company. We understand that you intend to distribute copies of our memorandum to the Boards of Directors of your respective companies.

On June 30, 1972 we submitted for your review and the review of your Counsel preliminary drafts of our memorandum, and we participated in discussing this matter with you and your Counsel on that date.

Following further discussions we have since had with Counsel, we understand that, as an alternative to merger with Du Pont, a liquidation of Christiana under Section

333 of the Internal Revenue Code of 1954 is no longer considered feasible.

We now understand that you have met and agreed to recommend certain terms for the proposed merger which result in a discount of 2.5% from Christiana's Adjusted Net Asset Value. We believe that the discount arrived at by you, which falls within the range set forth in the attached memorandum, is reasonable and fair and not overreaching from the standpoint of Du Pont, Christiana and the shareholders of both companies.

Very truly yours,

/s/ MORGAN STANLEY & Co.

APPLICANTS' JOINT EXHIBIT NO. 2.

CHRISTIANA SECURITIES COMPANY
DU PONT BUILDING
WILMINGTON DELAWARE

April 20, 1972

Mr. C. B. McCoy
Chairman and President
E. I. du Pont de Nemours & Company
1007 Market Street
Wilmington, Delaware 19898

Dear Mr. McCoy:

As you know, Christiana Securities Company owns approximately 28% of the outstanding common stock of the Du Pont Company. In recent years this block of stock has represented about 99% of the total assets of Christiana.

We have believed over the years that Christiana has served a desirable and useful purpose in that it has tended to contribute to the continuity of sound and able management of the Du Pont Company. But there are certain disadvantages associated with the holding of such a large block of Du Pont stock in this form. For example, the market price for Christiana common stock consistently is lower than the value of the underlying net assets, Du Pont dividends flowing to Christiana are subject to Federal income tax at an effective rate of 7.2%, and there are certain conditions that limit to some extent the marketability of Christiana common stock. These disadvantages may now outweigh the benefits derived from the holding of a large block of Du Pont stock by Christiana, and a merger of Christiana with Du Pont could be desirable. Such a merger could also have advantages for Du Pont. I believe

a merger might be practicable on terms that would be favorable to both Christiana and Du Pont and the stockholders of both companies.

Accordingly, I plan to call a meeting of the Board of Directors of Christiana for April 28, 1972 to discuss possibilities of a merger of Christiana into Du Pont. If the Christiana Board feels that such a merger might be desirable, I anticipate that a special committee of the Board will be appointed to develop possible terms for a merger.

I would appreciate your giving consideration to this matter from the standpoint of the interests of the Du Pont Company. If you feel that such a merger could be of possible interest to Du Pont, you might wish to appoint a special committee of the Du Pont Board to discuss the matter with a special committee of the Christiana Board appointed for such purpose.

Very truly yours,

/s/ IRÉNÉE DU PONT, JR.
Irénée du Pont, Jr.
President

APPLICANTS' JOINT EXHIBIT NO. 3.

E. I. DU PONT DE NEMOURS AND COMPANY
CHRISTIANA SECURITIES COMPANY

June 6, 1972

Morgan Stanley & Co.
140 Broadway
New York, New York 10005

Gentlemen:

The Boards of Directors of E. I. du Pont de Nemours and Company and Christiana Securities Company have each designated a Committee to negotiate a proposed merger of Christiana into Du Pont. We request that Morgan Stanley & Co. advise the Committees of each Board with regard to the proposed transaction.

You are requested to render an opinion and accompanying report addressed to both Committees, based upon a financial analysis and evaluation and taking into consideration all material factors you believe to be relevant to assist the Committees in their negotiations. Your report should set forth a range of ratios of exchange of Christiana Common Stock for Du Pont Common Stock and recommendations as to terms of exchange of Christiana Preferred Stock which you consider fair and reasonable to both Du Pont and Christiana and the shareholders of each such company. The merger will be subject to the approval of the Securities and Exchange Commission under the provisions of Section 17 of the Investment Company Act of 1940, which provides that as a prerequisite to approval, the Commission must determine, among other things, that the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person concerned.

We understand that you will undertake the study necessary to prepare such report and formulate such opinion immediately with a view to furnishing such material by June 20, 1972 if practicable. If you are willing to accept this assignment, please sign the two copies hereof and return one of the same to each of the companies.

Very truly yours,

SPECIAL COMMITTEES OF THE BOARD OF DIRECTORS OF:

E. I. DU PONT DE NEMOURS AND COMPANY

/s/ C. B. McCOY
C. B. McCoy

/s/ I. S. SHAPIRO
I. S. Shapiro

CHRISTIANA SECURITIES COMPANY

/s/ EDWARD B. DU PONT
Edward B. du Pont

/s/ A. FELIX DU PONT, JR.
A. Felix du Pont, Jr.

The foregoing assignment
is hereby accepted.

MORGAN STANLEY & CO.

APPLICANTS' JOINT EXHIBIT NO. 4.

[CONFORMED COPY]

AGREEMENT AND PLAN OF REORGANIZATION

between

E. I. DU PONT DE NEMOURS AND COMPANY

and

CHRISTIANA SECURITIES COMPANY

AGREEMENT AND PLAN OF REORGANIZATION dated this 20th day of December, 1972 (hereinafter the "Agreement") by and between E. I. DU PONT DE NEMOURS AND COMPANY, a Delaware corporation (hereinafter sometimes referred to as "Du Pont" or the "Surviving Corporation"), and CHRISTIANA SECURITIES COMPANY, a Delaware corporation (hereinafter sometimes referred to as "Christiana").

WITNESSETH:

WHEREAS, Du Pont is a corporation duly organized and existing under the laws of the State of Delaware, having been incorporated on September 4, 1915, under the General Corporation Law of Delaware, and has an authorized capital stock of 64,000,000 shares of which 60,000,000 are Common Stock and 4,000,000 are Preferred Stock;

WHEREAS, Christiana is a corporation duly organized and existing under the laws of the State of Delaware, having been incorporated on March 1, 1915, under the General Corporation Law of Delaware, and has an authorized capital stock of 13,706,500 shares of which 13,600,000 are Common Stock and 106,500 are Preferred Stock;

WHEREAS, the respective Boards of Directors of Du Pont and Christiana have adopted resolutions approving this Agreement providing, as a part hereof, for the merger of Christiana into Du Pont as contemplated hereby (hereinafter the "Merger"), such Merger to be upon the terms and conditions set forth in the Agreement of Merger attached hereto as Exhibit A, and such respective Boards of Directors will direct, subject to the conditions specified herein, that pursuant to the provisions of Section 251 of the General Corporation Law of Delaware, the Agreement of Merger be submitted to the stockholders of Du Pont and of Christiana at meetings separately called and held for the purpose of considering and voting upon the adoption or rejection thereof; and

WHEREAS, this Agreement is intended to constitute a plan of reorganization pursuant to Section 368 of the Internal Revenue Code of 1954.

NOW, THEREFORE, in consideration of the premises and the mutual agreements, covenants and provisions herein contained, the parties hereto have agreed and do hereby agree to merge subject to the conditions hereinafter set forth, as follows:

1. AGREEMENT TO MERGE.

The parties hereby agree that, subject to the terms and conditions of this Agreement, each of them shall duly execute and deliver to the other party hereto an Agreement of Merger substantially in the form attached hereto as Exhibit A and shall take appropriate action to cause such Agreement of Merger to become effective.

2. CLOSING.

The closing of the transaction provided for in Article 1 shall take place at the offices of Du Pont, Du Pont Building,

Wilmington, Delaware, at 10:00 a.m. on December 31, 1972, or as soon thereafter as possible; provided, however, that if the Merger is not consummated on or before June 30, 1973, this Agreement, unless mutually extended in writing by the parties hereto, shall terminate without liability of any kind on the part of either party. Promptly following the closing, Christiana and Du Pont shall each cause to be filed the Agreement of Merger in final form, properly executed and acknowledged, in accordance with the provisions of the General Corporation Law of Delaware. The date on which the Agreement of Merger becomes effective pursuant to the provisions of said law is hereinafter referred to as the "Effective Date".

3. REPRESENTATIONS AND WARRANTIES OF CHRISTIANA.

Christiana hereby represents and warrants as follows:

3.1 *Organization.* Christiana is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and is not required to be qualified to do business in any jurisdiction; and the copies of Christiana's Certificate of Incorporation, as amended, certified by the Secretary of State of Delaware, and of Christiana's By-Laws, certified by Christiana's Secretary, which have been delivered to Du Pont, are complete and correct as of the date of this Agreement.

3.2 *Capitalization.* Christiana's authorized capital stock consists of 106,500 shares of Seven Per Cent. Cumulative Non-voting Preferred Stock of the par value of $100 per share, of which 106,500 shares are validly issued and outstanding, and 13,600,000 shares of Common Stock of the par value of $1.25 per share, of which 11,710,103 shares are validly issued and outstanding; Christiana is not a party to any options, calls or commitments of any character relating to the purchase or sale of Christiana's authorized or issued stock.

3.3 *Authority.* The execution, delivery and performance of this Agreement by Christiana, including without limitation the merger of Christiana into Du Pont on the terms as set forth herein, have been duly and effectively authorized by the Board of Directors of Christiana, subject to adoption of the Agreement of Merger by the stockholders of Christiana, and subject to such other conditions as are provided herein.

3.4 *Financial Statements.* Christiana has delivered Du Pont copies of the following financial statements, all of which have been prepared in accordance with generally accepted accounting principles consistently followed throughout the periods indicated:

(i) balance sheet of Christiana as at December 31, 1971, and statements of income and undistributed net income for the years ended December 31, 1971, and 1970, in each case including notes thereto, certified by Haskins & Sells, certified public accountants; and

(ii) balance sheet of Christiana as at June 30, 1972, and statement of income and undistributed net income for the six-month period ended June 30, 1972, including notes thereto, certified by Haskins & Sells, certified public accountants.

Each of the aforesaid balance sheets fairly presents as of its date the financial condition and assets and liabilities of Christiana, and each of the aforesaid statements of income and undistributed net income fairly presents the results of operations of Christiana for the period indicated.

3.5 *Absence of Undisclosed Liabilities.* Except as otherwise contemplated by this Agreement and except as and to the extent reflected or reserved against in Christiana's balance sheet as at June 30, 1972, as of the date thereof Christiana had no material liabilities or obligations (whether accrued, absolute, contingent or otherwise) of a nature customarily reflected in a corporate balance sheet prepared in accordance with generally accepted accounting principles.

3.6 *Absence of Certain Changes or Events.* Since June 30, 1972, there has not been:

(i) any change in Christiana's financial condition, assets, liabilities or business, other than changes in the ordinary course of business, none of which has been material and adverse;

(ii) any declaration, setting-aside or payment of any dividend or other distribution in respect of Christiana's capital stock, except for quarterly cash dividends paid in accordance with its customary practices; and

(iii) any other event or condition of any character which has materially and adversely affected Christiana's assets or business.

3.7 *Tax Matters.* The provision made for taxes on Christiana's balance sheet as at June 30, 1972, is sufficient for the payment of all accrued and unpaid Federal, state and local taxes of Christiana, whether or not disputed, for the six-month period ended on June 30, 1972, and for all years prior thereto. Christiana's Federal income tax returns have been audited by the Internal Revenue Service for all open years to and including the year ended December 31, 1970, except for 1968 and 1969. All Federal, state

and local taxes due and payable by Christiana on or before the date of this Agreement have been paid. The Internal Revenue Service has proposed a deficiency in Federal income taxes for 1967 of approximately $89,000 which Christiana is contesting.

3.8 *Absence of Liens and Encumbrances.* Christiana has good and marketable title to all of its assets (including those reflected in Christiana's balance sheet as at June 30, 1972, except as since sold or otherwise disposed of in the ordinary course of business) free and clear of all liens, pledges or other encumbrances.

3.9 *Litigation.* Except for (i) *Christiana Securities Co. v. United States,* C. A. No. 3831 (D. Del.), and (ii) any litigation affecting Du Pont, there is no litigation, proceeding or governmental investigation pending, or, so far as known to Christiana, threatened against or relating to Christiana or its assets or business nor is there any basis known to Christiana for any such action.

3.10 *Governmental Authorities.* Christiana is duly registered as a nondiversified management investment company under the Investment Company Act of 1940, and is in full compliance with, and not in default of the performance of any action required under such Act, the Rules and Regulations of the Securities and Exchange Commission (the "Commission") adopted thereunder or any order of the Commission entered thereunder. Christiana is not a bank holding company as defined in the Bank Holding Company Act of 1956.

3.11 *Securities.* Christiana had valid and marketable title, free of any liens and encumbrances, to the following securities as of June 30, 1972:

13,417,120 shares	Du Pont Common Stock
16,256 shares	Du Pont $4.50 Series Cumulative Preferred Stock
69,216 shares	Wilmington Trust Company Common Stock
7,460 shares	The News-Journal Company Common Stock

3.12 *The News-Journal Company.* Christiana owns all the outstanding equity securities of The News-Journal Company and such securities are validly issued, fully paid and nonassessable; such company is duly organized and validly existing under the laws of the State of Delaware and is duly qualified to do business in all states in which the nature of its business as now conducted requires it to be qualified; the balance sheet of such company as at December 31, 1971, and the statements of income for the years ended December 31, 1970, and 1971, certified by Price Waterhouse & Co., previously delivered to Du Pont, have been prepared in accordance with generally accepted accounting principles consistently followed throughout the periods indicated; such balance sheet fairly presents as of its date the financial condition and assets and liabilities of such company; such statements of income fairly present the results of operations of such company for the periods indicated; and since December 31, 1971, except for earnings trends reflected in unaudited interim financial statements delivered to Du Pont, there has not been any change in such company's financial condition, assets, liabilities, or business other than changes in the ordinary course of business, none of which has been material and adverse, or any other event or condition which has materially and adversely affected such company's assets or business.

4. Representations and Warranties of Du Pont.

Du Pont hereby represents and warrants as follows:

4.1 *Organization.* Du Pont is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, has the corporate power to carry on its business as it is now being conducted, and is qualified to do business in each jurisdiction other than Delaware where it owns any principal manufacturing plants or in which the nature of its business requires it to be so qualified. The copies of Du Pont's Certificate of Incorporation, as amended, certified by the Secretary of State of Delaware, and of Du Pont's By-Laws, certified by Du Pont's Secretary, which have been delivered to Christiana, are complete and correct as of the date of this Agreement. Du Pont has valid title to all its principal manufacturing plants and facilities and to the stock it holds of each company which, under the Rules and Regulations of the Commission promulgated pursuant to the Securities Act of 1933, constitutes a significant subsidiary (the "Significant Subsidiaries").

4.2 *Capitalization.* Du Pont's authorized capital stock consists of 4,000,000 shares of Preferred Stock without par value, of which on June 30, 1972, there were issued and outstanding 1,688,850 shares of the $4.50 Series and 700,000 shares of the $3.50 Series, and 60,000,000 shares of Common Stock of the par value of $5.00 per share, of which on June 30, 1972, there were issued and outstanding or held in treasury 47,566,594 shares.

4.3 *Authority.* The execution, delivery and performance of this Agreement, including without limitation the merger of Christiana into Du Pont, on the terms as set forth herein, have been duly and effectively authorized by the Board of Directors of Du Pont, subject to adoption of

the Agreement of Merger by the stockholders of Du Pont and subject to such other conditions as are provided herein.

4.4 *Financial Statements.* Du Pont has delivered to Christiana copies of the following financial statements, all of which have been prepared in accordance with generally accepted accounting principles consistently followed throughout the periods indicated:

(i) consolidated balance sheet of Du Pont as at December 31, 1971, and statements of income and stockholders' equity for the years ended December 31, 1971, and 1970, in each case including notes thereto, certified by Price Waterhouse & Co., certified public accountants; and

(ii) consolidated balance sheet of Du Pont as at June 30, 1972, and statement of income for the six-month period ended June 30, 1972.

Each of the aforesaid consolidated balance sheets fairly presents as of its date the financial condition and assets and liabilities of Du Pont and each of the aforesaid statements of income and stockholders' equity fairly presents the results of operations of Du Pont for the period indicated.

4.5 *Absence of Undisclosed Liabilities.* Except as otherwise contemplated by this Agreement and except as and to the extent reflected or reserved against in the consolidated balance sheet of Du Pont as at June 30, 1972, as of the date thereof Du Pont had no material liabilities or obligations (whether accrued, absolute, contingent or otherwise) of a nature customarily reflected in a corporate balance sheet prepared in accordance with generally accepted accounting principles.

4.6 *Absence of Certain Changes or Events.* Since June 30, 1972, there has not been:

(i) any change in financial condition, assets, liabilities or business of Du Pont and the Significant Subsidiaries, taken as a whole, other than changes in the ordinary course of business, none of which has been material and adverse;

(ii) any declaration, setting-aside or payment of any dividend or other distribution in respect of Du Pont's capital stock, except for quarterly cash dividends paid in accordance with its customary practices; and

(iii) any other event or condition of any character which has materially and adversely affected the business or assets of Du Pont.

4.7 *Tax Matters.* The provision made for taxes on Du Pont's consolidated balance sheet as at June 30, 1972, is sufficient for the payment of all accrued and unpaid Federal, state and local taxes of Du Pont, whether or not disputed, for the six-month period ended on June 30, 1972, and for all years prior thereto. Du Pont's Federal income tax returns have been audited by the Internal Revenue Service for all open years to and including the year ended December 31, 1965. All Federal, state and local taxes due and payable by Du Pont on or before the date of this Agreement have been paid.

4.8 *Litigation.* Du Pont has delivered to Christiana a list of significant suits or proceedings pending against Du Pont. There is no other litigation, proceeding or governmental investigation pending, or, so far as known to Du

Pont, threatened against or relating to Du Pont or its Significant Subsidiaries, or its or their assets or business, the effect of which would be material and adverse to the assets or business of Du Pont and the Significant Subsidiaries taken as a whole, nor is there any basis known to Du Pont for any such action.

4.9 *Disposition of Certain Assets.* It is Du Pont's present intention, following the Effective Date, to dispose of the 69,216 shares of Wilmington Trust common stock and the interest in The News-Journal Company it will acquire pursuant to the Merger, it being recognized by the parties hereto that Du Pont intends to exercise its business judgment as to the timing, manner, terms and other conditions of disposition.

5. Access and Information.

Christiana and Du Pont hereby agree that each will give to the other and to the other's counsel, accountants and other representatives, full access, during normal business hours throughout the period prior to the date of closing, to all of its properties, books, contracts, commitments and records relevant to its performance under this Agreement, and that each will furnish the other during such period with all such information concerning its affairs as such other party may reasonably request.

6. Covenants of Christiana.

Christiana hereby covenants and agrees that prior to the Effective Date, it will not, without the prior written consent of Du Pont, except as otherwise specifically provided in this Agreement:

(a) amend its Certificate of Incorporation or By-Laws;

(b) engage in any activity or transaction or incur any obligation (by contract or otherwise) except in the ordinary course of business;

(c) sell or otherwise dispose of any of the securities listed in paragraph 3.11 of Article 3;

(d) issue rights or options to purchase or subscribe to, or subdivide, any shares of its capital stock;

(e) issue or sell any shares of its capital stock; or

(f) declare any dividends on, or make any distributions in respect of, any shares of its capital stock, or purchase or acquire for value any shares of its capital stock, except that Christiana may declare and pay quarterly cash dividends on its capital stock, the amounts and dates of such declarations and payments to be determined in accordance with its customary dividend policies and practices.

7. Covenants of Du Pont.

Du Pont hereby covenants and agrees as follows:

7.1 *Certificate of Incorporation.* Prior to the Effective Date, it will not, except as otherwise consented to in writing by Christiana, adopt any amendment (other than the proposed amendment set forth in the Agreement of Merger) to its Certificate of Incorporation which would affect in any manner the preferences, rights or powers of Du Pont Common Stock, or the number of shares thereof which are authorized or outstanding.

7.2 *Authorized Shares.* It will keep continuously available such number of authorized and unissued shares

of Common Stock as is necessary to make the Contingent Share Distribution referred to in Article Fifth of the Agreement of Merger.

7.3 *Exchange Listing.* It will use its best efforts to list on the New York Stock Exchange effective upon notice of issuance the shares of Du Pont Common Stock issuable pursuant to Article Fifth of the Agreement of Merger.

8. COVENANTS OF CHRISTIANA AND DU PONT.

8.1 *Applications.* Du Pont and Christiana have jointly applied to the Commission for an order or orders granting all necessary approval and authority for the Merger and have jointly applied to the Internal Revenue Service for certain rulings with respect to the tax consequences of the Merger, and shall cooperate to the end that the requested order and rulings shall issue as promptly as possible.

8.2 *Stockholder Action.* As soon as possible after receiving an order from the Commission as contemplated in paragraph 8.1 of this Article, Christiana shall submit the Agreement of Merger to its stockholders for the purpose of considering and acting upon the adoption thereof and Du Pont shall submit the Agreement of Merger (including as a part thereof the amendment to its Certificate of Incorporation to increase its authorized Common Stock to 65,000,000 shares) to its stockholders for the purpose of considering and acting upon the adoption thereof. Christiana and Du Pont will each supply the other with material for inclusion in their respective proxy statements describing their respective businesses which shall meet the requirements of the Investment Company Act of 1940 and the Securities Exchange Act of 1934 and the Rules and Regulations of the Commission thereunder as to proxy statements.

9. CONDITIONS PRECEDENT TO OBLIGATIONS OF CHRISTIANA.

Each and every obligation of Christiana to be performed on or prior to the date of closing shall be subject to the satisfaction, on or before the date of closing, of the following conditions:

9.1 *Representations and Warranties.* Except for changes therein permitted or required under this Agreement, the representations and warranties of Du Pont set forth in this Agreement shall be true in all material respects as of the date hereof and as of the date of closing; Du Pont shall have performed and complied with all agreements and conditions required by this Agreement to be performed or complied with by it prior to or on the date of closing; and Christiana shall have been furnished with a certificate of appropriate officers of Du Pont, dated the date of the closing, certifying in such detail as Christiana may reasonably request to the fulfillment of the foregoing conditions.

9.2 *Internal Revenue Service Rulings.* The Internal Revenue Service shall have issued a ruling or rulings satisfactory in form and substance to Christiana and to Dechert Price & Rhoads substantially to the following effect:

(a) No gain or loss will be recognized to Christiana upon the transfer of its assets to and the assumption of its liabilities by Du Pont pursuant to this Agreement and the Agreement of Merger, and no gain or loss will be recognized to Christiana upon the distribution by Christiana of Du Pont Common Stock and cash to the preferred shareholders of Christiana in exchange for their Christiana Preferred Stock or upon the distribution by Christiana of Du Pont Common Stock to the common stockholders of Christiana in exchange for their Christiana Common Stock;

(b) No gain or loss will be recognized to Du Pont upon the issuance of its Common Stock pursuant to this Agreement and the Agreement of Merger;

(c) No gain or loss will be recognized to the holders of Christiana Preferred Stock on the conversion of such stock in accordance with this Agreement and the Agreement of Merger, except that such ruling shall be deemed to be satisfactory notwithstanding that it states that the cash received by such holders will be taxable to them as capital gain or ordinary income;

(d) No gain or loss will be recognized to the holders of Christiana Common Stock upon the conversion of such stock into Du Pont Common Stock, including stock, if any, received in the Contingent Share Distribution (as that term is defined in the Agreement of Merger) but excluding any such stock treated as interest;

(e) The basis of the Du Pont Common Stock (except for any portion of the Contingent Share Distribution treated as interest) received by the holders of the Christiana Preferred Stock and of the Christiana Common Stock will be the same as the basis of the Christiana Preferred Stock or Common Stock converted thereinto, except that such ruling shall be deemed to be satisfactory notwithstanding that it states or indicates that adjustments are to be made (1) for the cash received by the holders of the Christiana Preferred Stock, (2) for the stockholder's interest in, and for the receipt of, the Contingent Share Distribution in the case of the holders of the Christiana Common Stock, and (3) for the gain, if any, recognized to the holders of the Christiana Preferred Stock; and

(f) The holding period of the Du Pont Common Stock (except for any portion of the Contingent Share Distribution treated as interest) received by the stockholders of Christiana will include the period during which the stock converted thereinto was held, provided that the stock so converted was a capital asset in the hands of the respective stockholder.

9.3 *Commission Order.* The Commission shall have issued an order pursuant to the Investment Company Act of 1940, satisfactory in form and substance to Christiana and to Dechert Price & Rhoads, exempting the Merger from the provisions of Section 17 of the Act.

9.4 *Exchange Listing.* The shares of Du Pont Common Stock issuable pursuant to Article Fifth of the Agreement of Merger shall have been authorized for listing on the New York Stock Exchange upon official notice of issuance.

9.5 *Opinions of Counsel.* Christiana shall have been furnished with an opinion, dated as of the date of closing, of Charles E. Welch, Esq., Assistant General Counsel to Du Pont, as to the matters specified in (i), (ii), (iii) and (vi) below, of Covington & Burling as to the matters specified in (ii), (iii), (iv), (v) and (vi) below, and of Dechert Price & Rhoads as to such of the matters specified in (ii), (iii), (iv), (v) and (vi) below as Christiana may have requested (each of which counsel may, as to matters of Delaware law, rely upon the opinion of Mr. Welch):

(i) Du Pont is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, and has corporate power to carry on its business as it is then being conducted;

(ii) the execution, delivery and performance of this Agreement and the Agreement of Merger by Du Pont have been duly authorized and approved by all requisite action of the Board of Directors and stockholders of Du Pont, this Agreement and the Agreement of Merger have been duly executed and delivered by Du Pont and this Agreement constitutes and the Agreement of Merger when it becomes effective will constitute a valid and binding obligation of Du Pont in accordance with their terms;

(iii) all shares of Du Pont Common Stock issuable pursuant to Article Fifth of the Agreement of Merger to holders of capital stock of Christiana will upon such issuance in accordance with this Agreement and the Agreement of Merger be validly issued, fully paid and nonassessable;

(iv) the shares of Du Pont Common Stock issuable pursuant to Article Fifth of the Agreement of Merger are not required to be registered under the Securities Act of 1933 or the Rules and Regulations of the Commission as in effect on the date of the opinion, or, if such registration is required, such registration has become effective;

(v) all necessary orders and approvals of the Commission under the Investment Company Act of 1940 have been received; and

(vi) no suit, action or other proceeding is to the best of the knowledge of such counsel pending or threatened before any court or administrative agency which, in such counsel's opinion, would result in a judgment or order preventing consummation of the Merger.

9.6 *Disposition of Shares.* Those stockholders of Christiana who will be restricted by the Securities Act of 1933 with respect to disposition of shares of Du Pont Common Stock received as a result of the Merger shall have received offers from Du Pont to enter into agreements, in a form satisfactory to Christiana, regarding obligations of the parties to such agreements in connection with any dispositions of such shares of Du Pont Common Stock by such stockholders.

10. Conditions Precedent to Obligations of Du Pont.

Each and every obligation of Du Pont to be performed on or prior to the date of closing shall be subject to the satisfaction, on or before the date of closing, of the following conditions:

10.1 *Representations and Warranties.* Except for changes therein permitted or required under this Agreement, the representations and warranties of Christiana set forth in this Agreement shall be true in all material respects as of the date hereof and as of the date of closing; Christiana shall have performed and complied with all agreements and conditions required by this Agreement to be performed or complied with by it prior to or at the date of closing; and Du Pont shall have been furnished with a certificate of appropriate officers of Christiana, dated the date of closing, certifying in such detail as Du Pont may reasonably request to the fulfillment of the foregoing conditions.

10.2 *News-Journal Certificate.* Du Pont shall have been furnished with a certificate of appropriate officers of The News-Journal Company dated the date of closing to the effect that since December 31, 1971, except for earnings trends reflected in unaudited interim financial state-

ments delivered to Du Pont, there has been no material and adverse change in the business and assets and in the condition and operations, financial or otherwise, of such company.

10.3 *Internal Revenue Service Rulings.* The Internal Revenue Service shall have issued a ruling or rulings satisfactory in form and substance to Du Pont and to Covington & Burling substantially to the following effect:

(a) No gain or loss will be recognized to Christiana upon the transfer of its assets to and the assumption of its liabilities by Du Pont pursuant to this Agreement and the Agreement of Merger, and no gain or loss will be recognized to Christiana upon the distribution by Christiana of Du Pont Common Stock and cash to the preferred shareholders of Christiana in exchange for their Christiana Preferred Stock or upon the distribution by Christiana of Du Pont Common Stock to the common stockholders of Christiana in exchange for their Christiana Common Stock;

(b) No gain or loss will be recognized to Du Pont upon the issuance of its Common Stock pursuant to this Agreement and the Agreement of Merger;

(c) The basis to Du Pont of the assets acquired from Christiana pursuant to this Agreement and the Agreement of Merger will be the same as the basis of such assets to Christiana immediately before the Effective Date of the Merger; and

(d) The holding period to Du Pont of the assets acquired from Christiana pursuant to this Agreement and the Agreement of Merger will include the holding period of such assets to Christiana.

10.4 *Commission Order.* The Commission shall have issued an order pursuant to the provisions of the Investment Company Act of 1940 satisfactory in form and substance to Du Pont and to Covington & Burling, exempting the Merger from the provisions of Section 17 of the Act.

10.5 *Disposition of Shares.* Those stockholders of Christiana who will be restricted by the Securities Act of 1933 with respect to disposition of shares of Du Pont Common Stock received as a result of the Merger shall have entered into agreements with Du Pont, in a form satisfactory to Du Pont, regarding obligations of the parties to such agreements in connection with any dispositions of such shares of Du Pont Common Stock by such stockholders.

10.6 *Opinions of Counsel.* (a) Du Pont shall have been furnished with an opinion, dated as of the date of closing, of Covington & Burling as to the matters specified in (ii), (iii), (iv) and (v) below and of Dechert Price & Rhoads as to each of the matters set forth below (each of whom, as to matters of Delaware law, may rely on the opinion of Morris, Nichols, Arsht & Tunnell) to the effect that:

(i) Christiana is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, and has corporate power to carry on its business as it is then being conducted;

(ii) the execution, delivery and performance of this Agreement and the Agreement of Merger by Christiana have been duly authorized and approved by all requisite action of the Board of Directors and stockholders of Christiana, this Agreement and the Agreement of Merger have been duly executed and delivered by Christiana and this Agreement constitutes and the Agreement of Merger when it becomes effective will constitute a valid and binding obligation of Christiana in accordance with their terms;

(iii) the shares of Du Pont Common Stock issuable pursuant to Article Fifth of the Agreement of Merger are not required to be registered under the Securities Act of 1933 or the Rules and Regulations of the Commission as in effect on the date of the opinion, or, if such registration is required, such registration has become effective;

(iv) all necessary orders and approvals of the Commission under the Investment Company Act of 1940 have been received; and

(v) no suit, action or other proceeding is to the best of the knowledge of such counsel pending or threatened before any court or administrative agency which, in such counsel's opinion, would result in a judgment or order preventing consummation of the Merger.

(b) Du Pont shall have been furnished with an opinion, dated as of the date of closing, of Richards, Layton & Finger, counsel to The News-Journal Company, to the effect that:

(i) The News-Journal Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, and has corporate power to carry on its business as it is then being conducted; and

(ii) all shares of The News-Journal Company capital stock outstanding as of the date of such opinion are validly issued, fully paid and nonassessable.

11. TERMINATION OF WARRANTIES AND REPRESENTATIONS.

All statements contained in any certificate, instrument or document delivered by or on behalf of the parties pursuant to this Agreement shall be deemed representations and warranties by the respective parties hereunder. None of the representations, warranties, agreements and covenants hereunder shall survive the Effective Date except for the representation of Du Pont made pursuant to paragraph 4.9 of Article 4 hereof and the covenant of Du Pont made pursuant to paragraph 7.2 of Article 7 hereof.

12. WAIVER.

Either party hereto may at its option waive in writing any and all covenants and conditions herein contained to which its obligations hereunder are subject.

13. TERMINATION.

Anything herein to the contrary notwithstanding, this Agreement and the Agreement of Merger may be terminated and the Merger may be abandoned at any time prior to the date of closing:

(a) by mutual agreement evidenced by resolutions of the Boards of Directors of the parties hereto; or

(b) by Du Pont in the event that (i) the Agreement of Merger shall not be approved by its stockholders by the requisite vote, or (ii) any suit, action or other proceeding shall have been instituted or is threatened before any court or administrative agency which, in the opinion of Covington & Burling, would result in an order requiring the divestment of any assets acquired by Du Pont as a result of the Merger, other than stock of Wilmington Trust Company or The News-Journal Company; or

(c) by Christiana in the event the Agreement of Merger shall not be approved by its stockholders by the requisite vote.

14. AMENDMENTS.

This Agreement may be amended or modified only by a written instrument executed by Christiana and Du Pont acting by their respective officers thereunto duly authorized by their respective Boards of Directors. No such amendment shall be made to the Agreement of Merger after it shall have been adopted by the shareholders of Christiana or Du Pont.

15. NOTICES.

All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given if delivered or mailed, first class postage prepaid,

(a) if to Christiana, marked to the attention of Mr. Irénée du Pont, Jr., President, Christiana Securities Company, Du Pont Building, Wilmington, Delaware 19898, or

(b) if to Du Pont, marked to the attention of Mr. Charles B. McCoy, Chairman and President, E. I. du Pont de Nemours and Company, Du Pont Building, Wilmington, Delaware 19898,

or to such other persons or such other address as shall be furnished in writing by either party to the other.

16. COUNTERPARTS.

This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

17. GOVERNING LAW.

This Agreement shall be construed and enforced in accordance with the laws of the State of Delaware.

IN WITNESS WHEREOF, the undersigned parties hereto have duly executed this Agreement on the date first above written.

(SEAL)

CHRISTIANA SECURITIES COMPANY

Attest:

/s/ T. E. HOUSE
Assistant Secretary

By /s/ IRÉNÉE DU PONT, JR.
President

(SEAL)

E. I. DU PONT DE NEMOURS AND COMPANY

Attest:

/s/ S. A. MILLINER, JR.
Assistant Secretary

By /s/ C. B. McCOY
Chairman of the Board and President

Exhibit A

AGREEMENT OF MERGER

THIS AGREEMENT OF MERGER, dated as of the 20th day of December, 1972, is made pursuant to Section 251 of the General Corporation Law of the State of Delaware by and between CHRISTIANA SECURITIES COMPANY, a Delaware corporation (hereinafter sometimes called "Christiana"), and E. I. DU PONT DE NEMOURS AND COMPANY, a Delaware corporation (hereinafter sometimes called "Du Pont" or the "Surviving Corporation"). Christiana and Du Pont are referred to herein collectively as the "Constituent Corporations".

WITNESSETH:

The Constituent Corporations have agreed that Christiana shall be merged into Du Pont and that the terms and conditions of said Merger, the plan and mode of carrying the same into effect, the amendment of the Certificate of Incorporation of Du Pont as the Surviving Corporation, the manner of converting shares of Christiana into shares of DuPont and cash the holders of shares of Christiana are to receive, the retirement of certain shares of Du Pont's capital stock, and other matters with respect to the Merger are and shall be as follows:

First. Upon the effective date of the Merger, as defined in Article Third hereof (the "Effective Date"), Christiana shall be merged into Du Pont which shall be the Surviving Corporation and which shall continue its corporate existence and remain a Delaware corporation governed by the laws of the State of Delaware.

Second. (a) The corporate name of the Surviving Corporation shall remain E. I. du Pont de Nemours and Company;

(b) The Certificate of Incorporation of Du Pont shall be amended as follows:

The second and third paragraphs of Article FOURTH shall be deleted and in their place shall be inserted the following paragraph:

> "The total number of shares of all classes of stock which the corporation shall have authority to issue shall be Sixty-nine Million (69,000,000), of which Four Million (4,000,000) shares shall be Preferred Stock without par value and Sixty-five Million (65,000,000) shares shall be Common Stock having a par value of Five Dollars ($5.00) each."

The Certificate of Incorporation of the Surviving Corporation shall not be amended in any other respect by reason of the Merger, and the Certificate of Incorporation of the Surviving Corporation as heretofore amended and as further amended hereby shall be the Certificate of Incorporation of the Surviving Corporation until any further amendment is made pursuant to the laws of the State of Delaware;

(c) The By-Laws of Du Pont shall be the By-Laws of the Surviving Corporation and shall continue in force and effect, until duly altered, amended or repealed; and

(d) The directors of Du Pont on the Effective Date shall constitute the Board of Directors of the Surviving Corporation and shall serve until the next annual meeting of stockholders of the Surviving Corporation, and until their successors are chosen and shall have qualified, as provided in the By-Laws of the Surviving Corporation.

Third. When this Agreement of Merger has been adopted by vote of the holders of a majority of the issued and outstanding shares of Christiana and of Du Pont en-

titled to vote thereon, it shall, subject to conditions specified in an Agreement and Plan of Reorganization between the Constituent Corporations dated December 20, 1972, be executed, acknowledged and submitted for filing in the manner prescribed by Section 251 of the General Corporation Law of the State of Delaware. This Agreement of Merger shall become effective at the close of business on the date it is so filed with the Secretary of State of Delaware. Such date is referred to herein as the Effective Date.

Fourth. Upon the Effective Date, the separate existence of Christiana shall cease and the Surviving Corporation shall thereupon and thereafter possess all of the rights, privileges, powers and franchises as well of a public as of a private nature, and be subject to all the restrictions, disabilities and duties of each of such corporations so merged; and all and singular, the rights, privileges, powers and franchises of each of said corporations, and all property, real, personal and mixed, and all debts due to each of the Constituent Corporations on whatever account, as well for stock subscriptions as all other things in action or belonging to each of the Constituent Corporations shall be vested in the Surviving Corporation; and all property, rights, privileges, powers and franchises, and all and every other interest shall be thereafter as effectually the property of the Surviving Corporation as they were of the respective Constituent Corporations, and the title to any real estate, vested by deed or otherwise, under the laws of the State of Delaware, in either of the Constituent Corporations shall not revert or be in any way impaired by virtue of such Merger; but all rights of creditors and all liens upon any property of the Constituent Corporations shall be preserved unimpaired, and all debts, liabilities and duties of the Constituent Corporations shall thenceforth attach to

the Surviving Corporation and may be enforced against it to the same extent as if the said debts, liabilities and duties had been incurred or contracted by it.

If at any time the Surviving Corporation shall consider or be advised that any further assignments or assurances in law or other things are necessary or desirable to vest, or to perfect or to confirm, of record or otherwise, in the Surviving Corporation, the title to any property of Christiana acquired or to be acquired as a result of the Merger provided for herein, both the proper officers and directors of Christiana and the proper officers and directors of the Surviving Corporation are fully authorized to execute and deliver any and all proper deeds, assignments and assurances in law and to do all things necessary and proper in the name of Christiana or otherwise so as to vest, perfect or confirm title to such property in the Surviving Corporation, and otherwise carry out the purposes of this Agreement of Merger.

Fifth. The manner and basis of converting the issued and outstanding shares of each of the Constituent Corporations and of retiring certain stock of the Surviving Corporation shall be as follows:

(a) Each share of Seven Per Cent. Cumulative Non-voting Preferred Stock of Christiana ($100 par value) issued and outstanding on the Effective Date shall be converted into and become (i) such number of shares, or fraction thereof, of fully paid and non-assessable Common Stock ($5.00 par value) of Du Pont, theretofore authorized and unissued, as is determined by dividing $120 by the average of the closing prices of Du Pont Common Stock on the New York Stock Exchange for the ten trading days immediately preceding the Effective Date plus (ii) an amount in cash equal to the dividend accrued and unpaid on

said Preferred Stock up to and including the Effective Date. The Common Stock capital account of Du Pont shall thereupon be increased by the aggregate par value of said shares issued in the conversion.

(b) Each share of Christiana Common Stock ($1.25 par value) issued and outstanding on the Effective Date shall be converted into 1.123 shares of Common Stock ($5.00 par value) of Du Pont, theretofore authorized and unissued, (the "Effective Date Distribution") and, in addition, a pro rata portion of any shares of Du Pont Common Stock distributed on or prior to the fifth anniversary of the Effective Date, in any Contingent Share Distribution. The Contingent Share Distribution shall be the number of shares of Du Pont Common Stock determined by dividing the Final Recovery (as defined below) in *Christiana Securities Co. v. United States*, C. A. No. 3831 in the United States District Court for the District of Delaware (the "Tax Claim") by the average of the closing prices of Du Pont Common Stock on the New York Stock Exchange for the ten trading days immediately preceding the date on which such Final Recovery is made. No certificate or scrip with respect to the Contingent Share Distribution shall be issued, and a stockholder's interest therein shall not be assignable except by will or by operation of law. Du Pont's obligation to make such Contingent Share Distribution shall be discharged, and distribution thereof shall be deemed to be made, by conveying, within ten days after the date on which such Final Recovery is made, the shares of Du Pont Common Stock to an agent for the holders of record of Christiana Common Stock on the Effective Date designated by the Tax Claim Committee referred

to below for distribution in accordance with the terms of this Agreement of Merger. In the event the Final Recovery shall be received prior to the Effective Date, the Effective Date Distribution shall be increased by a pro rata share of the number of shares of Du Pont Common Stock obtained by dividing the Final Recovery by $163.875 and there shall be no Contingent Share Distribution. The Common Stock capital account of Du Pont shall be increased by the aggregate par value of shares issued in the conversion constituting the Effective Date Distribution.

(I) Final Recovery shall mean, with respect to the Tax Claim, any amount recovered by settlement as well as by entry of a judgment which shall have become final, including amounts attributable to interest, with the following adjustments:

(i) less the amount, if any, by which the expenses paid or incurred with respect to the Tax Claim subsequent to July 17, 1972 exceed $1,000,000;

(ii) less the applicable income taxes payable by Du Pont or Christiana with respect to the Final Recovery, the rate and amount of such income taxes to be determined by Du Pont;

(iii) less the cost of making the Contingent Share Distribution;

(iv) plus the amount (whether or not any monetary judgment shall be entered), if any, by which the expenses paid or incurred with respect to the Tax Claim subsequent to July 17, 1972 are less than $1,000,000;

(v) plus the sum of the amounts determined at the end of each calendar quarter ending after July 17, 1972 through the date of Final Recovery by multiplying $1,000,000 less the total amount of expenses paid since July 17, 1972 with respect to the Tax Claim by ⅛ of the then prevailing prime commercial lending rate of interest of Morgan Guaranty Trust Company of New York;

(vi) plus the amount of any reduction in income taxes of Du Pont and Christiana resulting from expenses with respect to the Tax Claim paid or incurred after July 17, 1972, the rate and amount of such income taxes to be determined by Du Pont or Christiana as the case may be; provided, however, that no adjustment shall be made under this clause (vi) for reduction in income taxes of Du Pont unless the Internal Revenue Service shall have issued a ruling that such expenses are deductible for Federal income tax purposes; and

(vii) plus, if the Contingent Share Distribution is not distributed within one year after the Effective Date, an amount equal to the Final Recovery adjusted as set forth in clauses (i) through (vi) above multiplied by a factor determined by the following formula:

$$\text{Factor} = \frac{.04rt}{1 + .04t - .04rt}$$

where r is the rate of income taxes determined by Du Pont for purpose of clause (ii) above and t is the years and decimal fraction of a year from the Effective Date to the date of Final Recovery; provided, however, that no adjustment shall be made under this clause (vii) unless the Internal Revenue Service shall have issued a ruling that such amounts determined to be the payment of interest under (II) below are deductible by Du Pont for Federal income tax purposes.

The Final Recovery shall be deemed to have occurred when payment is received by Du Pont or Christiana from the United States of America in full settlement of the Tax Claim or in full discharge of any final judgment, or if a judgment denying monetary relief is entered, the date on which such judgment becomes final. In the event that there shall have been no such Final Recovery on or before the 150th day preceding the fifth anniversary of the Effective Date, Du Pont agrees to negotiate in good faith with the Tax Claim Committee to determine the amount which represents the fair value of the Tax Claim at such time. In the event that Du Pont and the Tax Claim Committee are unable to agree on an amount before the 120th day preceding the fifth anniversary of the Effective Date, they shall, within three days after such date, each deliver a written notice to the other designating one appraiser. The two appraisers so designated shall select a third appraiser. In the event that the designated appraisers are unable, or fail, within seven days after their appointment, to agree upon

the third appraiser, they or either of them shall immediately request the American Arbitration Association to appoint a third appraiser in accordance with its rules as to appointment of a neutral arbitrator. The third appraiser so selected or appointed shall act as chairman. The appraisers shall meet at the call of the chairman and take such proceedings as they deem necessary to determine the then fair value of the Tax Claim. Within ninety days after the appointment of the third appraiser, but no later than the tenth business day preceding the fifth anniversary of the Effective Date, the appraisers shall deliver to Du Pont and the Tax Claim Committee in writing a statement specifying the then fair value of the Tax Claim. The decision of a majority of such appraisers shall be final and conclusive unless a majority are unable to agree, in which event the determination of the chairman shall be final and conclusive. The amount agreed upon between Du Pont and the Tax Claim Committee or, in the absence of such agreement, the amount determined by the appraisers, representing the then fair value of the Tax Claim shall be supported by a statement specifying the portions thereof deemed to be (1) recovery of tax paid, (2) recovery of interest paid and (3) interest on both of these items, and shall be treated for all purposes hereunder as though it were an amount recovered by settlement of the Tax Claim on the date of such agreement or of such determination by appraisal.

(II) If the Contingent Share Distribution is not distributed within one year after the Effective Date, a portion of any Contingent Share Distribution shall be deemed the payment of interest on a deferred payment (the "Interest Shares") and the balance shall be deemed to be the payment of principal (the "Principal Shares"). The portion deemed payment of interest shall be determined by multiplying the Final Recovery by a factor determined by the following formula:

$$\text{Factor} = 1 - \frac{1}{1 + .04t}$$

where *t* is the years and decimal fraction of a year from the Effective Date to the date of distribution of the Contingent Share Distribution.

(III) If the Contingent Share Distribution occurs within one year after the Effective Date, the maximum number of shares of Du Pont Common Stock which may be issued in the Contingent Share Distribution is 300,000 shares. If the Contingent Share Distribution occurs more than one year after the Effective Date, the maximum number of Principal Shares which may be issued as part of the Contingent Share Distribution is 300,000 shares. The maximum number of shares of Du Pont Common Stock referred to above shall be appropriately adjusted in the event of any division, combination or modification of Du Pont Common Stock, whether through recapitalization, stock split, stock dividend or otherwise. In the event that the maximum number of Principal Shares applies as the result of computing the number of Principal Shares under subparagraph (II), subparagraph (II) shall not apply to deter-

mine the number of Interest Shares to be distributed and there shall be distributed as interest the lesser of (a) a number of Interest Shares equal to the number of Principal Shares multiplied by a factor equal to six percent per annum simple interest from the Effective Date to the date of distribution of the Contingent Share Distribution, or (b) the excess of the Contingent Share Distribution (determined without regard to this subparagraph) over the maximum number of Principal Shares.

(IV) All matters relating to prosecution and settlement of the Tax Claim and the Contingent Share Distribution shall be determined by a special Tax Claim Committee consisting of the members of the Board of Directors of Christiana as constituted on the Effective Date. If any vacancies shall occur among the members of the Tax Claim Committee, those remaining in office shall appoint replacements. The Tax Claim Committee shall have authority to the same extent as the board of directors of a corporation organized under the General Corporation Law of the State of Delaware.

(c) Except as provided in paragraph (c) of this Article Fifth, each share of Common Stock of Du Pont ($5.00 par value) issued and outstanding or held in treasury by Du Pont on the Effective Date shall remain unchanged and unaffected by the Merger.

(d) Except as provided in paragraph (e) of this Article Fifth, each share of any series of Preferred Stock of Du Pont issued and outstanding or held in treasury by Du Pont on the Effective Date shall remain unchanged and unaffected by the Merger.

(e) Each share of Common Stock ($5.00 par value) and $4.50 Series Cumulative Preferred Stock of Du Pont held by Christiana on the Effective Date and received by Du Pont in the Merger shall be forthwith retired and restored to the status of authorized and unissued shares, and the capital of Du Pont shall be automatically reduced by the aggregate amount of capital attributable on the Effective Date to—

1) the shares of Preferred Stock then retired, at the stated value thereof, and

2) the shares of Common Stock then retired, at par value thereof.

A Certificate of Reduction of Capital shall be filed pursuant to Section 244 of the General Corporation Law of the State of Delaware.

(f) Subject to the limitations of Article Sixth and to the provisions herein with respect to a Contingent Share Distribution, the conversion of the shares of Christiana capital stock pursuant to this Agreement of Merger shall be complete and effective on the Effective Date without regard to the date or dates upon which certificates representing shares of Christiana shall be surrendered by the holders thereof for certificates representing Du Pont Common Stock as hereinafter provided. Until so surrendered and subject to the limitations of Article Sixth, certificates for shares of Christiana Preferred Stock shall be deemed for all purposes from and after the Effective Date to evidence the ownership of the number of full shares of Du Pont Common Stock into which such shares of Christiana Preferred Stock shall have been converted as of the Effective Date as herein provided and certificates for

shares of Christiana Common Stock shall be deemed for all purposes from and after the Effective Date to evidence the ownership of the number of full shares of Du Pont Common Stock into which such shares of Christiana Common Stock shall have been converted by reason of the Effective Date Distribution. Subject to the limitations of Article Sixth, (i) upon surrender by any holder of certificates representing shares of Preferred Stock of Christiana, Du Pont shall issue certificates representing the full shares of Du Pont Common Stock to which such stockholder shall be entitled by reason of the conversion as of the Effective Date and the cash payment with respect thereto and (ii) upon surrender by any holder of certificates representing shares of Common Stock of Christiana, Du Pont shall issue certificates representing the full shares of Du Pont Common Stock to which such stockholder shall be entitled by reason of the Effective Date Distribution.

(g) No fractional shares of Du Pont Common Stock or certificate or scrip representing the same shall be issued in connection with the Merger. In lieu thereof each holder of Du Pont Common Stock having a fractional interest arising upon the Effective Date will be afforded the opportunity through the exchange agent for such stock, on or before the 40th day following the Effective Date, either to consolidate his fractional interest into one full share of such stock by purchasing and paying for the additional fractional interest required for such consolidation, or to sell his fractional interest and obtain the proceeds thereof. Any fractional interest with respect to which instructions shall not have been received by the exchange agent within the prescribed period shall be sold. Buying and selling orders may be offset, but they will be exercised at prices determined by market transactions. The proceeds of any sale of a fractional interest shall be paid in cash by the exchange agent to the stockholder entitled to the fractional interest sold, except that the exchange agent shall not pay such proceeds to any such stockholder who shall not have surrendered his certificates for exchange pursuant to Article Sixth, and shall retain such proceeds until such time as such certificates have been so surrendered. The same procedure shall be utilized for the treatment of fractional interests arising out of any Contingent Share Distribution. The exchange agent shall be the agent of the stockholders entitled to such fractional share interests and shall act on behalf of such stockholders pursuant to instructions of Du Pont or the Tax Claim Committee, as the case may be.

(h) Notwithstanding the provisions of paragraph (a) of this Article Fifth, no share of Christiana Preferred Stock, the holder of which has, within the time periods specified in Section 262 of the General Corporation Law of the State of Delaware, objected to the Merger and made demand upon the Surviving Corporation for payment of the value of such share shall be deemed converted hereunder; provided, however, that any such share, the holder of which shall, with the approval of the Surviving Corporation, withdraw his objection to the Merger, shall be deemed converted hereunder as of the Effective Date.

Sixth. After the Effective Date, each holder of an outstanding certificate or certificates theretofore representing capital stock of Christiana shall surrender the same to an agent or agents designated by Du Pont (accompanied

by such instruments of transfer as Du Pont may reasonably require), and each holder shall upon such surrender receive in exchange therefor a certificate or certificates representing the shares of Du Pont Common Stock to which such stockholder is entitled on the Effective Date (excluding any shares to be distributed in any Contingent Share Distribution) by reason of the Merger together with any additional share which may have been purchased, or the proceeds of any fractional share sold pursuant to Article Fifth hereof, and, in the case of Christiana Preferred Stock, the cash payment. Until the surrender of a certificate or certificates evidencing the Christiana shares, any dividend or other distributions in respect of such shares of Du Pont Common Stock shall be accumulated and not paid or delivered, but at the time of such surrender, any such dividends or other distributions shall be paid or delivered in full but without interest thereon.

Seventh. Anything herein to the contrary notwithstanding, this Agreement of Merger may be terminated and the Merger may be abandoned at any time prior to the Effective Date:

(a) by mutual agreement evidenced by resolutions of the Boards of Directors of the parties hereto; and

(b) by either party hereto if any condition precedent to its obligation under an Agreement and Plan of Reorganization between the parties dated December 20, 1972, is not met.

IN WITNESS WHEREOF, this Agreement has been executed by each of the Constituent Corporations, by its Chairman of the Board or its President or a Senior Vice President or a Vice President and attested by the Secretary or an Assistant Secretary of each of the Constituent

Corporations under its corporate seal, all on the date first above written.

[CORPORATE SEAL] CHRISTIANA SECURITIES COMPANY

Attest:

/s/ T. E. HOUSE
Assistant Secretary

By /s/ IRÉNÉE DU PONT, JR.
President

[COR. ORATE SEAL] E. I. DU PONT DE NEMOURS AND COMPANY

Attest:

/s/ S. A. MILLINER, JR.
Assistant Secretary

By /s/ C. B. MCCOY
Chairman of the Board and President

I, , Secretary of CHRISTIANA SECURITIES COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Delaware, hereby certify as follows:

1. The foregoing Agreement of Merger was adopted and approved by the Board of Directors of CHRISTIANA SECURITIES COMPANY in accordance with Section 251 of the General Corporation Law of the State of Delaware and was executed by its President and attested by the Secretary of CHRISTIANA SECURITIES COMPANY under its corporate seal in accordance with Section 103 of the General Corporation Law of the State of Delaware.

2. Thereafter, the foregoing Agreement of Merger was submitted to the stockholders of CHRISTIANA SECURITIES COMPANY, at a meeting thereof duly called for the purpose of acting on said Agreement of Merger and at said meeting a majority of the outstanding shares of the capital stock of CHRISTIANA SECURITIES COMPANY entitled to vote thereon were voted for the adoption of the foregoing Agreement of Merger.

IN WITNESS WHEREOF, I have hereunto signed my name as Secretary of CHRISTIANA SECURITIES COMPANY and affixed the seal of said corporation this day of , 1973.

.....
Secretary

[CORPORATE SEAL]

I, , Secretary of E. I. DU PONT DE NEMOURS AND COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Delaware, hereby certify as follows:

1. The foregoing Agreement of Merger was adopted and approved by the Board of Directors of E. I. DU PONT DE NEMOURS AND COMPANY, in accordance with Section 251 of the General Corporation Law of the State of Delaware and was executed by the Chairman of the Board and President and attested by the Secretary of E. I. DU PONT DE NEMOURS AND COMPANY, under its corporate seal, in accordance with Section 103 of the General Corporation Law of the State of Delaware.

2. Thereafter, the foregoing Agreement of Merger was submitted to the stockholders of E. I. DU PONT DE NEMOURS AND COMPANY, at a meeting thereof duly called for the purpose of acting on said Agreement of Merger and at said meeting a majority of the outstanding shares of the capital stock of E. I. DU PONT DE NEMOURS AND COMPANY entitled to vote thereon were voted for the adoption of the foregoing Agreement of Merger.

IN WITNESS WHEREOF, I have hereunto signed my name as Secretary of E. I. DU PONT DE NEMOURS AND COMPANY and affixed the seal of said corporation this day of , 1973.

.....
Secretary

[CORPORATE SEAL]

The foregoing Agreement of Merger having been duly adopted by the stockholders of CHRISTIANA SECURITIES COMPANY, a Delaware corporation, and by the stockholders of E. I. DU PONT DE NEMOURS AND COMPANY, a Delaware corporation, and the fact of the adoption thereof as aforesaid having been duly certified thereon by the Secretary of CHRISTIANA SECURITIES COMPANY, and by the Secretary of E. I. DU PONT DE NEMOURS AND COMPANY, respectively, all in accordance with law, said Agreement of Merger is hereby executed by the Chairman of the Board or the President or a Senior Vice President or a Vice President and attested by the Secretary or an Assistant Secretary of each of said Corporations thereunto duly authorized, under its respective corporate seal, this day of , 1973.

CHRISTIANA SECURITIES COMPANY

By .....

[CORPORATE SEAL]

Attest:

.....
Secretary

E. I. DU PONT DE NEMOURS AND COMPANY

By .....

[CORPORATE SEAL]

Attest:

.....
Secretary

STATE OF DELAWARE
COUNTY OF NEW CASTLE } *ss.:*

BE IT REMEMBERED that on this day of , 1973, personally came before me, a Notary Public in and for the county and state aforesaid,
of CHRISTIANA SECURITIES COMPANY, a corporation of the State of Delaware and one of the corporations described in and which executed the foregoing Agreement of Merger, known to me personally to be such, and he the said as such duly executed said Agreement of Merger before me and acknowledged said Agreement of Merger to be his act and deed and the act, deed and agreement of said CHRISTIANA SECURITIES COMPANY, that the facts stated therein are true, that his signature to said foregoing Agreement of Merger is in his handwriting, and that the seal affixed to said Agreement of Merger is the corporate seal of CHRISTIANA SECURITIES COMPANY.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office the day and year aforesaid.

[NOTARIAL SEAL]

.....
Notary Public

STATE OF DELAWARE
COUNTY OF NEW CASTLE } *ss.:*

BE IT REMEMBERED that on this day of , 1973, personally came before me, a Notary Public in and for the county and state aforesaid, of E. I. DU PONT DE NEMOURS AND COMPANY, a corporation of the State of Delaware and one of the corporations described in and which executed the foregoing Agreement of Merger, known to me personally to be such, and he the said , as such duly executed said Agreement of Merger before me and acknowledged said Agreement of Merger to be his act and deed and the act, deed and agreement of said E. I. DU PONT DE NEMOURS AND COMPANY, that the facts stated therein are true, that his signature to said foregoing Agreement of Merger is in his handwriting, and that the seal affixed to said Agreement of Merger is the corporate seal of E. I. DU PONT DE NEMOURS AND COMPANY.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office the day and year aforesaid.

[NOTARIAL SEAL]

.....
Notary Public

APPLICANTS' JOINT EXHIBIT NO. 5.

(1 page summary only)

STUDY OF SELECTED MERGERS

Subject to Investment Company Act of 1940

Pages	*Company Acquired/ Surviving Company*	*Relationship of Value Paid to Net Asset Value*	*Relationship of Market Value of Company Acquired to Its Net Asset Value*
1-2	Detroit & Cleveland Navigation Co./Denver Chicago Trucking Company, Inc.	Equal to net asset value	16.9% discount at 6/29/60 (Net asset value as of 4/30/60)
3-4	Delaware Realty & Investment Company/ Christiana Securities Company	1.5% discount from adjusted net asset value	N.A.
5-6	Prudential Investing Corporation/Axe Houghton Fund, Inc.	Equal to net asset value (after 2% adjustment for Leffler's fee)	17.6% discount at 12/16/46
7-8	Huyler's/Altamil Corporation	Equal to net asset value	N.A.
9-10	Eastern States Corporation/St. Regis Paper Company	Equal to net asset value	2.5% discount at 1/31/69
11-12	Harbor Plywood Corporation/Hunt Foods and Industries, Inc.	Equal to net assset value (after $1.65 upward adjustment of net asset value)	13.5% discount at 9/30/61
	Not Subject to Investment Company Act of 1940		
13-15	United States Foil Company/Reynolds Metals Company	Equal to net asset value	24.1% discount at 5/12/60
16-17	Beneficial Corporation/ Beneficial Finance Co.	.6% premium over net asset value	17.3% discount at 11/30/67

Pages	*Company Acquired/ Surviving Company*	*Relationship of Value Paid to Net Asset Value*	*Relationship of Market Value of Company Acquired to Its Net* Asset Value
18-19	United Utilities Company/American Water Works Company, Inc.	Equal to net asset value	N.A.
20-21	Eccles Investment Company/Utah Construction & Mining Co.	1.83% discount from net asset value	N.A.

DU PONT EXHIBIT NO. 1

E. I. DU PONT DE NEMOURS & COMPANY
INCORPORATED
WILMINGTON, DELAWARE

EXECUTIVE OFFICES

June 6, 1972

The First Boston Corporation
20 Exchange Place
New York, New York 10005

Gentlemen:

The Board of Directors of E. I. du Pont de Nemours and Company has designated a Committee to negotiate a proposed merger of Christiana Securities Company into Du Pont. We request that The First Boston Corporation advise such Committee concerning the financial aspects of the proposed merger.

We would like you to render an opinion and accompanying report, based upon a financial analysis and evaluation and taking into consideration all material factors you believe to be relevant, to assist the Du Pont Committee in its negotiations. Your report should set forth a range of ratios of exchange of Christiana Common Stock for Du Pont Common Stock and recommendations as to terms of exchange of Christiana Preferred Stock which you consider fair and reasonable to both Du Pont and Christiana and the shareholders of each such company. The merger will be subject to the approval of the Securities and Exchange Commission under the provisions of Section 17 of the Investment Company Act of 1940, which provides that as a prerequisite to approval, the Commission must determine, among other things, that the terms of the pro-

BEST COPY AVAILABLE

posed transaction are reasonable and fair and do not involve overreaching on the part of any person concerned.

We understand that you will undertake the study necessary to prepare such report and formulate such opinion immediately with a view to furnishing such material by June 20, 1972 or as promptly thereafter as is practicable. If you are willing to accept this assignment, please sign a copy hereof and return it to us.

Very truly yours,

E. I. Du Pont de Nemours and Company

Special Committee of the
Board of Directors:

/s/ C. B. McCoy
C. B. McCoy
/s/ I. S. Shapiro
I. S. Shapiro

The foregoing assignment
is hereby accepted.

The First Boston Corporation
By /s/ Edward Townsend
Senior Vice President

DU PONT EXHIBIT NO. 3.

Excerpts from
Brief for the United States
before the Supreme Court
in the
General Motors "Relief Proceedings"
(October Term, 1960—No. 55)

No. 55

IN THE

Supreme Court of the United States

OCTOBER TERM, 1960

—

UNITED STATES OF AMERICA, APPELLANT

v.

E. I. DUPONT DE NEMOURS AND COMPANY, ET AL.

—

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS

—

BRIEF FOR THE UNITED STATES

—

J. LEE RANKIN,
Solicitor General.
ROBERT A. BICKS,
Assistant Attorney General.
JOHN F. DAVIS,
Assistant to the Solicitor General.
CHARLES H. WESTON,
GEORGE D. REYCRAFT,
BILL G. ANDREWS,
Attorneys.
Department of Justice, Washington 25, D.C.

62

* * *

With respect to the threatened disruption of the market for du Pont and General Motors stocks, the basis for the court's findings is that a large volume of stock will be poured out into the market in a short period of time, partially by reason of the direct requirement that General Motors stock received by Christiana and Delaware be sold and partly by voluntary sales by other du Pont stockholders made necessary in order to pay taxes or to avoid tax problems.[40] We of course agree that consideration of such foreseeable effects of a plan of divestiture are a proper consideration for a court in framing a decree; a court should not impose requirements which will cause stock to be dumped on the market faster than it can be digested. But once a court has taken every precaution to encourage an orderly distribution and has given the parties concerned the opportunity within the framework of a divestiture order to arrange the program so as to fit in most readily with their financial needs, then the court cannot speculate as to intermediate short-range market fluctuations.

* * *

---

[40] Merger of Christiana and Delaware with du Pont, which would be tax free, would sharply reduce the amount of General Motors stock to be sold by the trustee by eliminating the distributions of General Motors stock to Christiana and Delaware which under the present setup would be made on account of the du Pont holdings of those two companies (R. 64-66). The reduction would be from a little over 19,000,000 shares to 535,500 shares. (See R. 3210.)

70

* * *

* * * The evidence shows dividend payments of this kind by another company (R. 2543, 2545), and du Pont itself paid such a dividend in 1935 (Moody's 1936 *Industrial Manual,* p. 1950).[50]

(3) *Sale of General Motors Shares.* Under the suggested judgment du Pont would be free to divest by utilizing any or all of various selling techniques. It would also be unrestricted as to those to whom sale could be made except that, because of the close ties between Christiana, Delaware and du Pont, the judgment should bar sale to either of these du Pont-tied holding companies.[51]

Du Pont stockholders would be subjected to no tax liability by reason of du Pont's sale of General Motors shares.

* * *

---

[50] The district court believed it certain that, if du Pont retained funds because of distributing to its stockholders General Motors shares rather than cash, this would "enhance the power and position of the du Pont Company and perhaps create new antitrust problems for both the Company and the Department of Justice in the future" (R. 3248). But it would be sound corporate practice for du Pont to utilize most of the retained funds to purchase and retire its stock, thereby reducing its capital stock account in rough correspondence with the reduction in assets caused by divestment of General Motors stock. Furthermore, such purchases would create additional demand for du Pont stock, and this demand would offset such additional supply as resulted from selling by stockholders dissatisfied with dividends paid partly in cash and partly in stock.

[51] We note that Christiana and Delaware have announced plans to merge, contingent upon obtaining requested clearance by the Internal Revenue Service and the Securities & Exchange Commission. Consummation of the planned merger would render moot a ban in the antitrust judgment against sales to Delaware. Moreover, if Christiana and du Pont should merge, following merger of Christiana and Delaware, this would render moot all restrictions of the antitrust judgment relating to Christiana and Delaware.

83

* * *

Conclusion

It is respectfully submitted that the judgment of the district court should be reversed, with directions to determine, in conformity with the opinion of this Court, the relief which is necessary and appropriate; that the Court's opinion should give the district court directions of the kind suggested under Point IV of this brief; and that the Court's opinion should approve Sections IV to X, inclusive, of the judgment entered on November 17, 1959, as appropriate prohibitions or commands to remain in effect pending entry of final judgment on the second remand to the district court.

J. Lee Rankin,
Solicitor General.
Robert A. Bicks,
Assistant Attorney General.
John F. Davis,
Assistant to the Solicitor General.
Charles H. Weston,
George D. Reycraft,
Bill G. Andrews,
Attorneys.

November 1960.

---

[64] *Decrees and Judgments in Civil Federal Anti-Trust Cases* 687, 690.

U.S. GOVERNMENT PRINTING OFFICE, 1960

DU PONT EXHIBIT NO. 4.

(exclusive of exhibits)

THE FIRST BOSTON CORPORATION
MEMBER NEW YORK STOCK EXCHANGE, INC.

20 EXCHANGE PLACE
NEW YORK, N. Y. 10005

July 6, 1972

Messrs.
C. B. McCoy
I. S. Shapiro
Special Committee of the Board of Directors
E. I. du Pont de Nemours and Company
Wilmington, Delaware 19898

Gentlemen:

By letter of April 20, 1972 Mr. Irénée du Pont, Jr., President of Christiana Securities Company, wrote Mr. McCoy enquiring whether the Du Pont Company would be interested in considering a possible merger of Christiana into the Du Pont Company. Subsequently, the two companies appointed special committees of their boards to consider such a merger.

By letter of June 6, 1972 you requested The First Boston Corporation to advise your Committee concerning the financial aspects of the proposed merger. You said you would like us to render an opinion and accompanying report, based upon a financial analysis and evaluation and taking into consideration all material factors we believe to be relevant. You further stated that our report should set forth a range of ratios of exchange of Christiana Common Stock for Du Pont Common Stock and recommendations as to terms of exchange of Christiana Preferred Stock which we consider fair and reasonable to both Du Pont and Christiana and the shareholders of each company. You pointed out that the merger will be subject to the approval of the Securities and Exchange Commission under the provisions of Section 17 of the Investment Company Act of 1940, "which provides that as a prerequisite to approval, the Commission must determine, among other things, that the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person concerned". We accepted the assignment.

You have indicated to us your view that the principal advantages of the proposed merger (and, based upon our study, we share the view) are

a) to the Du Pont Company and its shareholders a termination of the long-standing affiliation with Christiana under the Investment Company Act of 1940, as a result of which a number of business decisions of the Du Pont Company over the years have been impeded and delayed by reason of regulatory requirements,

b) to Christiana and its shareholders (i) the elimination of significant reductions in dividend income by reason of income taxes and administrative expenses, and (ii) a marked improvement in market price, as well as the enhanced marketability of the Du Pont shares over that of the present Christiana shares.

You have supplied us with all the information—financial, legal, regulatory, and accounting—which you or we considered requisite to our study of the proposed merger.

Responsive to your request we submit this opinion letter and, under separate cover, a report entitled "Study

of Proposed Merger of Christiana Securities Company into E. I. du Pont de Nemours and Company".

Based upon our analysis and study we recommend to your Committee, given the financial conditions of the two companies and market conditions currently prevailing, that the Du Pont Company make an offer:

1) in the range of 1.108 and 1.139 shares of Du Pont Company Common Stock for each outstanding share of Christiana Common Stock, and

2) .705 share of Du Pont Company Common Stock for each outstanding share of Christiana 7% Preferred Stock.

In our Study we have arbitrarily assigned no value to Christiana's Federal Tax Claim. In recognition of this, and supplementing the foregoing, we recommend that the Du Pont Company undertake in the Merger Agreement to issue such number of shares (or fraction of a share) of Du Pont Company Common Stock for each outstanding share of Christiana Common Stock as shall in the aggregate (taken at a market price of Du Pont Company Common Stock not less than that prevailing on the effective date of merger) be equivalent to the recovery (if any) net of taxes and expenses on the Federal Tax Claim of Christiana, such shares (or fraction of a share) to be distributed to Christiana shareholders contingently upon there being a net recovery, failing which no such distribution would be made.

It is our opinion that the range of ratios of exchange of Du Pont Company Common Stock for Christiana Common Stock and the terms of exchange of Du Pont Company Common Stock for Christiana 7% Preferred Stock recommended above are fair and reasonable to both the Du Pont Company and to Christiana and to the shareholders of each such company. Moreover, in our judgment, the recommended terms of the proposed transaction do not involve overreaching on the part of any person concerned.

Very truly yours,

THE FIRST BOSTON CORPORATION
By /s/ EDWARD TOWNSEND
Edward Townsend
Senior Vice President

DU PONT EXHIBIT NO. 4

(Schedule 3)

MERGER EXCHANGE RATIOS AND CONSEQUENCES

Our financial analysis and evaluation of the two companies, after taking into account all factors we deemed to be relevant, leads us to the view that in the proposed merger the Du Pont Company should not suffer any dilution in earnings nor any other adverse financial effect. On the contrary there should be an inducement offered to Du Pont shareholders to vote affirmatively for the merger. That inducement, in our judgment, might reasonably be represented by an increase in pro forma per share earnings to Du Pont shareholders in the range of 8¢ to 2¢ and (indirectly related to such increase) a decrease in pro forma dividend requirements of Du Pont ranging from $1,910,000 to $85,000.

On the following page there are presented three exchange ratios of Du Pont Common Stock for Christiana Common Stock and the consequences which flow to Du Pont and Christiana shareholders respectively. These ratios and their consequences reflect the range of inducement to Du Pont shareholders which we recommend. Also presented is a constant exchange ratio of Du Pont Common Stock for Christiana 7% Preferred Stock and the related consequences.

Based upon our analysis and study, we believe these exchange ratios fall within a range of fairness and reasonableness to the shareholders of the two companies.

MERGER EXCHANGE RATIOS AND CONSEQUENCES

	I.	II.	III.
Each Common Share of Christiana Receives the Following Shares of Du Pont Common:	1.108	1.123	1.139
Each Preferred Share of Christiana Receives the Following Shares of Du Pont Common:	.705	.705	.705
Consequences to Christiana Common Shareholders (a):			
Market Value of Offer–Aggregate (000)/Per Share	$2,208,959 / $188.64	$2,238,864 / $191.19	$2,270,762 / $193.91
% Premium Over Market Price of $158.00 (5/31/72)	19.4%	21.0%	22.7%
Earnings Per Share, 1971	$8.18 ($7.38 x 1.108)	$8.25 ($7.35 x 1.123)	$8.34 ($7.32 x 1.139)
% Change From $5.28 (12/31/71)/$7.96(b)	54.9% / 2.8%	56.3% / 3.6%	58.0% / 4.8%
Earnings Per Share, LTM to 3/31/72	$8.78 ($7.92 x 1.108)	$8.86 ($7.89 x 1.123)	$8.95 ($7.86 x 1.139)
% Change From $5.28 (12/31/71)/$8.56(b)	66.3% / 2.6%	67.8% / 3.5%	69.5% / 4.6%
New Dividend Income	$5.54	$5.615	$5.695
% Change From $5.25	5.5%	6.9%	8.5%
Consequences to Christiana Preferred Shareholders (c):			
Market Value of Offer–Aggregate (000)/Per Share	$ 12,783 / $120.03	$ 12,783 / $120.03	$ 12,783 / $120.03
% Premium Over Market Price of $100.00 (5/31/72)	20.0%	20.0%	20.0%
New Dividend Income	$3.525	$3.525	$3.525
% Change From $7.00	(49.6)%	(49.6)%	(49.6)%

	Before Merger		After Merger		After Merger		After Merger	
	Aggregate		Aggregate	% of Total	Aggregate	% of Total	Aggregate	% of Total
Consequences to Du Pont								
Du Pont Common Shares Outstanding (d)	47,445,810		34,028,690	72.3%	34,028,690	72.0%	34,028,690	71.7%
Issued to Christiana (e)			13,049,876	27.7	13,225,528	28.0	13,412,889	28.3
Total			47,078,566	100.0%	47,254,218	100.0%	47,441,579	100.0%
% Change in Common Shares Outstanding			(0.8%)		(0.4%)		(–%)	
% Du Pont Voting Rights to Former Christiana Shareholders (f)	26.95%		26.38%		26.64%		26.92%	
Market Value of Common (5/31/72)	*Aggregate (000)*	*Per Share*	*Aggregate (000)*		*Aggregate (000)*		*Aggregate (000)*	
Du Pont Common	$8,077,649	$170.25	$5,793,384(g)		$5,793,384(g)		$5,793,384(g)	
Issued to Christiana Common and Preferred			2,221,741		2,251,646		2,283,544	
Total (Assumes No Change in Market Price of Du Pont Common)			$8,015,125		$8,045,030		$8,076,928	
New Dividend Payout								
Dividends on Common Issued (h)					$ 66,128		$ 67,064	
Less: Dividends on Preferred and Common Retired (i)			$ 65,249 67,159		67,159		67,159	
Net Decrease/(Increase) in Payout			$ 1,910		$ 1,031		$ 85	
			Per Share	*% Change*	*Per Share*	*% Change*	*Per Share*	*% Change*
Book Value (3/31/72) (j)	$2,865,000	$60.38	$61.57	2.0%	$61.34	1.6%	$61.09	1.2%
Earnings Per Share, 1971 (k)		$ 7.30	$ 7.38	1.1%	$ 7.35	0.7%	$ 7.32	0.3%
Earnings Per Share, LTM to 3/31/72 (k)		$ 7.84	$ 7.92	1.0%	$ 7.89	0.6%	$ 7.86	0.3%
Pro Forma Capitalization (000)	*Du Pont (3/31/72)*		*Pro Forma*		*Pro Forma*		*Pro Forma*	
Long-Term Debt	$ 234,100	6.9%	$ 234,100	6.9%	$ 234,100	6.9%	$ 234,100	6.9%
Preferred Stock at Liquidation Value	274,100	8.1	270,019	7.9	270,019	7.9	270,019	7.9
Common Equity	2,865,000	85.0	2,898,433	85.2	2,898,433	85.2	2,898,433	85.2
Total Capitalization	$3,373,200	100.0%	$3,402,552	100.0%	$3,402,552	100.0%	$3,402,552	100.0%

JMS – 7/6/72

Footnotes:

(a) Based on 11,710,103 common shares outstanding as of 5/1/72.

(b) Christiana earnings adjusted to an equity basis as follows:

	1971	*LTM*
Christiana Net Income Available for Common (12/31/71)	$61,895.079	$ 61,895.079
Add: Equity in DuPont Net Income Available for Common	98,131.600	105,201.600
Less: Dividends on Common Received	(67,085.600)	(67,085.600)
Add: Equity in Journal Net Income	497.800	497.800
Less: Dividends on Common Received	(238.720)	(238.720)
Adjusted Net Income	$93,200.159	$100,270.159
Based on 106,500 preferred shares outstanding as of 5/1/72.		
Shares outstanding (5/31/72)	47,445,810	
Less: Shares to be Retired	13,417,120	(28.3%)
Adjusted shares outstanding	34,028,690	

(c)

(d)

(e) Includes 75,082 common shares issued to Christiana preferred.

(f) Based on DuPont common and preferred shares outstanding as of 5/31/72.

(g) Excludes $2,284,265.000 in market value of common shares retired.

(h) Includes $375.400 dividends payable to former preferred shareholders.

(i) Includes $73.152 in $4.50 preferred dividends.

(j) Reported book value as of 3/31/72 plus market value of common issued plus difference between market value of common issued and net asset value of Christiana as of 5/31/72 as outlined in Addendum divided by actual common shares outstanding as shown above.

(k) Reported net income available for common for the period plus adjustments described in Schedule II divided by actual common shares outstanding as shown above.

JMS – 6/29/72

ADDENDUM TO SCHEDULE III

Relationship of Market Value Offered Christiana Common Under Alternative Exchange Ratios to Christiana Adjusted Net Asset Value as of May 31, 1972

(Aggregate $ Amount in Thousands)

Alternatives				I.		II.		III.	
Exchange Ratios for Common Stock				1.108		1.123		1.139	
Market Value of Offer				$188.64		$191.19		$193.91	
% Premium Over Market Price of $158.00 (5/31/72)				19.4%		21.0%		22.7%	
% (Discount From) Adjusted Net Asset Value of $196.83				(4.2)%		(2.9)%		(1.5)%	
								(1)	
Assets				Book Value (5/1/72)				Adjusted Net Asset Value (5/31/72)	
				Aggregate	*Per Share*			*Aggregate*	*Per Share*
Cash and Cash Equivalents Less Current Liabilities				$ 5,239	$0.45			$ 5,239	$ 0.45
	Shares Owned	%	*Market Price (5/31/72)*						
Investments									
Du Pont Common	13,417,120	28.28%	$170.25	$74,622	$6.37			$2,284,265	$195.07(a)
Du Pont $4.50 Preferred	16,256	0.96	69.125	1,298	0.11			1,124	0.10(a)
Wilmington Trust Common	69,216	3.45	40.75	904	0.08			2,820	0.24(a)
News-Journal Common	7,460	100.00	–	846	0.07			24,250	2.07(b)
Total				$77,670	$6.63			$2,312,459	$197.48
Deferred Charges (Claim for Tax Refund)				11,723	1.00			–	–
Total Assets				$94,632	$8.08			$2,317,698	$197.93
Less: Preferred Stock				(10,650)	(0.91)			(12,780)	(1.09)(c)
Total Net Assets				$83,982	$7.17			$2,304,918	$196.83
Common Shares Outstanding				11,710,103				11,710,103	

(1) *Assumptions for Adjusted Net Asset Value*

(a) Market Value of Du Pont Common, $4.50 Preferred and Wilmington Trust Common.

(b) Appraised value of News-Journal.

(c) 106,500 shares of Preferred Stock at call price of $120.00 per share.

JMS – 7/6/72

DU PONT EXHIBIT NO. 4A.

THE FIRST BOSTON CORPORATION

MEMBER NEW YORK STOCK EXCHANGE, INC.

20 EXCHANGE PLACE
NEW YORK, N. Y. 10005

July 7, 1972

Messrs.
C. B. McCoy
I. S. Shapiro
Special Committee of the Board of Directors
E. I. du Pont de Nemours and Company
Wilmington, Delaware 19898

Gentlemen:

We have transmitted to you by letter dated July 6, 1972, our Opinion Letter dated July 6, 1972 and a report entitled "Study of Proposed Merger of Christiana Securities Company into E. I. du Pont de Nemours and Company" also dated July 6, 1972.

A draft Opinion Letter and a draft Report, both dated June 29, 1972, were submitted and discussed with you and others whom you invited to be present on the evening of June 29, 1972 in Wilmington. On the following day, June 30, we participated in a meeting with you, the Special Committee of the Board of Directors of Christiana, and advisors to the two Committees.

We are advised that agreement has been reached by the two Committees and is to be embodied in a proposed "Agreement and Plan of Reorganization between E. I. du Pont de Nemours and Company and Christiana Securities Company" which is to be submitted to the Boards of Directors of the two companies.

We are further advised that such proposed Agreement will provide that Du Pont will offer 1.1225 shares of its Common Stock for each outstanding share of Christiana Common Stock and .705 share of Du Pont Common Stock for each outstanding share of Christiana 7% Preferred Stock. Both ratios of exchange, we understand, are based upon market values prevailing at May 31, 1972 and are to be adjusted at a later date to reflect changes in market prices.

In response to your request we advise you of our opinion that the foregoing exchange ratios fall within the ranges set forth in our Opinion Letter of July 6, 1972 and that such exchange ratios are fair and reasonable to the Du Pont Company and to Christiana and to the shareholders of the two companies.

Very truly yours,

THE FIRST BOSTON CORPORATION
By /s/ EDWARD TOWNSEND
Edward Townsend
Senior Vice President

DU PONT EXHIBIT NO. 5.
pp. 1-20.

E. I. DU PONT DE NEMOURS AND COMPANY
Wilmington, Delaware 19898

PROXY STATEMENT
Special Meeting of Stockholders to
Be Held on , 1972

....., 1972

The proxy enclosed herewith is being solicited by order of the Board of Directors of E. I. du Pont de Nemours and Company (hereinafter sometimes referred to as "the Company" or "Du Pont") for use in connection with the special meeting of stockholders to be held on ....., 1972. The expense of printing and mailing proxy material will be included in the expenses discussed under "Merger Expenses" herein. If solicitation other than by mail is made, it is estimated that the expense of such solicitation will be nominal, but no compensation will be paid specifically for such solicitation. The proxy may be revoked by the stockholder at any time prior to its being voted. If the proxy is properly signed and is not revoked by the stockholder, it will be voted at the meeting and the vote will be cast in accordance with the instruction of the stockholder. At the close of business on ....., 1972, the record date for determining the holders of the common stock entitled to vote at the meeting, the Company had ..... shares of common stock outstanding and entitled to vote.

MATTERS TO BE CONSIDERED

The Board of Directors has called this special meeting of stockholders to consider and act upon a proposal,

pursuant to the Delaware General Corporation Law, to adopt the Agreement of Merger providing for the merger of Christiana Securities Company ("Christiana") into Du Pont, including as a part thereof with respect to the surviving corporation, Du Pont, (1) an amendment of the Certificate of Incorporation to increase the authorized common stock of Du Pont from the present 60,000,000 shares of $5 par value per share to 65,000,000 shares of $5 par value per share and (2) a provision for the reduction of capital attributable to shares of Du Pont stock to be acquired from Christiana in the merger and to be retired. The complete terms and conditions of the merger are set forth in the Agreement and Plan of Reorganization ("Plan") between Du Pont and Christiana, both Delaware corporations, which includes the Agreement of Merger. The Plan is attached as Exhibit A.

Summary of Certain Interests

Christiana owns 13,417,120 shares (28.3%) of Du Pont common stock and five of the twenty-six directors of Du Pont are also directors of Christiana. In view thereof, Christiana may be deemed to be in control of Du Pont within the meaning of the Securities Exchange Act of 1934 and the Regulations thereunder. Christiana and Du Pont have consistently denied in prior proxy statements and otherwise that Du Pont is controlled by Christiana. Nevertheless, as described herein under "Merger Negotiations", the terms of the proposed merger were negotiated with a recognition by all participants that it might be considered that Christiana has the potential to exercise a controlling influence over Du Pont, and especial effort was made by Du Pont and Christiana to assure that the terms of the proposed merger would be fair and reasonable for all parties affected.

Christiana is a publicly owned corporation with outstanding capital stock of 11,710,103 shares of common stock ($1.25 par value) and 106,500 shares of 7% cumulative preferred stock ($100 par value). Wilmington Trust Company (the "Bank") and its nominees held of record as of July 31, 1972 an aggregate of 6,575,367 shares of Christiana common stock, or 56.2% of such shares outstanding. Christiana is informed that the Bank held all of these shares in a fiduciary capacity, principally in trust for the benefit of various individuals and institutions, and that the Bank had the right to vote 1,908,686 of such shares (16.3% of the shares outstanding) without consulting any beneficiary or co-fiduciary. Of the eleven members of Christiana's Board of Directors, three are members of the Board of Directors of the Bank as well as the Board of Directors of Du Pont;* three additional Du Pont directors** are members of the Board of Directors of the Bank. In addition, Edward B. du Pont, a director of Christiana and a member of Christiana's special Board committee (see "Merger Negotiations"), is a trust officer of the Bank. Christiana has consistently denied in prior proxy statements and otherwise that Christiana controls, is controlled by, or is under common control with, the Bank, but in view of the matters discussed in this "Summary of Certain Interests", it might be considered that the potential for one or more of such control relationships exists among Christiana, Du Pont and the Bank. In accordance with customary practice of the Bank, members of the Board of Directors of Christiana and Du Pont who serve as directors or officers

* L. du P. Copeland, Irénée du Pont, Jr. and George P. Edmonds. Mr. du Pont is also the President of Christiana and a Senior Vice President of Du Pont.

** W. Sam Carpenter, III, Charles B. McCoy (a member of Du Pont's special Board committee, see "Merger Negotiations") and Hugh R. Sharp, Jr. Mr. McCoy is also President and Chairman of the Board of Du Pont.

of the Bank have taken and will take no part in the determination of the Bank with respect to voting of shares of Christiana stock by the Bank in connection with the merger proposal.

The Merger Terms

The Plan provides for the merger of Christiana into Du Pont, with Du Pont as the surviving corporation. When the merger becomes effective, Du Pont will acquire all of the assets of Christiana and will assume all of the liabilities of Christiana.

The assets of Christiana include 13,417,120 shares (28.3%) of Du Pont common stock, which constitutes about 98% of the market value of Christiana's total assets. In addition, Christiana owns 16,256 shares (1.0%) of Du Pont preferred stock, $4.50 series, 69, 216 shares (3.5%) of Wilmington Trust Company common stock and 7,460 shares (100%) of the common stock of The News-Journal Company, which publishes the two daily newspapers in Wilmington, Delaware. Christiana also has a claim for refund of Federal income taxes. Additional information about the assets and liabilities of Christiana is set forth herein under "Description of Christiana and Du Pont", "Merger Negotiations", "Claim for Tax Refund" and "Disposition of Certain Assets", and in the financial statements of Christiana included in Exhibit C.

Under the Plan, Du Pont will issue, on the effective date of the merger, approximately 13,228,620 shares of its common stock (28.0% of shares outstanding on a pro forma basis after giving effect to the merger). The holders of Christiana common stock will receive all of such shares of Du Pont common stock, except for approximately 78,000 of such shares to be received by the holders of Christiana preferred stock. At the same time, Du Pont will make a

cash payment to the holders of Christiana preferred stock equal to the dividend accrued and unpaid on their stock to the merger date. The holders of Christiana common stock will also receive in the merger any shares of Du Pont common stock distributed, on or prior to the fifth anniversary of the effective date of the merger, in any Contingent Share Distribution, as discussed herein under "Claim for Tax Refund".

The shares of Christiana stock outstanding will be treated in the merger as follows:

(a) Each share of Christiana common stock will be converted into 1.123 shares of Du Pont common stock and, in addition, a pro rata portion of any shares of Du Pont common stock distributed, on or prior to the fifth anniversary of the effective date of the merger, in any Contingent Share Distribution.

(b) Each share of Christiana preferred stock will be converted into such number of shares, or fraction thereof, of Du Pont common stock as is determined by dividing $120 (the redemption price) by the average of the closing prices of Du Pont common stock on the New York Stock Exchange for the ten trading days immediately preceding the effective date of the merger and, in addition, an amount in cash equal to the dividend accrued and unpaid on the preferred stock up to and including the effective date of the merger.

Holders of Du Pont common and preferred stock other than Christiana will continue to hold after the merger the same shares of Du Pont stock they held before the merger.

The 13,417,120 shares of Du Pont common stock and 16,256 shares of Du Pont preferred stock, $4.50 series, held

by Christiana and received by Du Pont in the merger will be retired and restored to the status of authorized and unissued shares. Accordingly, there will be a net reduction of approximately 188,500 in the outstanding shares of Du Pont common stock on the effective date of the merger and, in addition, Du Pont will then own all of the other assets of Christiana and will assume the liabilities of Christiana referred to above. Also, based on pro forma data, annual earnings per share of Du Pont common stock will be increased four cents as a result of the merger.

As discussed herein under "Merger Negotiations" the merger terms were calculated on the basis of Christiana stockholders receiving Du Pont common stock equal in value to 97½% of Christiana's adjusted net asset value. Based on market prices at April 28, 1972, immediately before announcement of merger discussions, Christiana common stockholders would receive, under the merger terms, a per share market value increase of $41.94 in the securities they hold, from $147.00 to $188.94. Christiana preferred stockholders will receive Du Pont common stock with a market price of $120, compared to a market price on April 28, 1972 of $100.

See "Comparative Per Share Data" herein for additional information concerning the effects of the merger.

Increase in Authorized Du Pont Common Stock

In connection with the provision of authorized and unissued shares for issuance in the merger, Du Pont's Certificate of Incorporation will be amended to increase the authorized common stock by 5,000,000 shares to 65,000,000 shares. The approximately 17,742,690 shares of Du Pont common stock authorized and unissued after the merger will be available for issuance by Du Pont for its corporate purposes.

Vote Required; Appraisal Rights

The proposed merger will require the affirmative vote of the holders of a majority of the outstanding shares of Du Pont common stock, and of the holders of a majority of the outstanding shares of Christiana common stock, voting at their respective meetings. The holders of Christiana preferred stock will be accorded statutory appraisal rights, as described herein under "Rights of Christiana Preferred Stockholders Objecting to the Merger".

Conditions to Effectiveness of Merger

Effectiveness of the merger is subject to receipt of satisfactory rulings from the Internal Revenue Service as to certain Federal income tax consequences of the merger, as described herein under "Tax Consequences of Merger", to the effect, among other things, that no gain or loss will be recognized to the holders of Christiana stock, except that the cash received by the Christiana preferred stockholders may be taxable and any portion of the Contingent Share Distribution (see "Claim for Tax Refund") received by the Christiana common stockholders and deemed interest may be taxable. Effectiveness of the merger is also subject to certain other conditions specified in the Plan and summarized herein under "Certain Provisions of the Plan and Agreement of Merger". Upon authorization by the stockholders and satisfaction of the foregoing conditions, the merger will become effective upon the close of business on the day of filing the Agreement of Merger in the office of the Secretary of State of Delaware.

Capitalization of Du Pont

The following table shows the authorized and outstanding stock of Du Pont as of June 30, 1972, before the merger and on a pro forma basis after giving effect to the merger:

	Before Merger	*After Merger*
Preferred Stock		
Authorized shares	4,000,000	4,000,000
Outstanding shares		
$4.50 series (without par value–	1,688,850	1,672,594
$3.50 series cumulative)	700,000	700,000
Common Stock ($5 par value)		
Authorized shares	60,000,000	65,000,000
Outstanding shares*	47,445,810	47,257,310

* Excludes 120,784 shares held in treasury and any shares that may be issued in the Contingent Share Distribution.

The long-term borrowings of Du Pont and consolidated subsidiaries of $215,468,868 at June 30, 1972 will not be affected by the merger.

Description of Christiana and Du Pont

Christiana

Christiana is a closed-end, nondiversified management investment company registered with the Securities and Exchange Commission under the Investment Company Act of 1940. Market value of Du Pont common shares held by Christiana represents nearly the entire value of Christiana's total assets and substantially all of Christiana's gross income consists of dividends paid on these Du Pont common shares. Over the years, there has been virtually no turnover in Christiana's portfolio, and Christiana has consistently followed the practice of declaring dividends on its common stock in an amount nearly equal to its net earnings per share of common stock. Expenses of operation are minimal. Security holdings of Christiana, book values thereof and market values thereof used on July 17, 1972 as the basis of the merger terms (approved in principle on that date by the Boards of Directors of Du Pont and Christiana, see "Merger Negotiations") are shown below:

No. of Shares	*Security*	*Book Value Amount*	*Book Value % of Total*	*Market Value Amount*	*Market Value % of Total*
13,417,120	Du Pont, Common	$74,621,915	96.1%	$2,198,730,540 (a)	98.7%
16,256	Du Pont, $4.50 Preferred	1,298,056	1.6	1,124,102 (a)	0.1
69,216	Wilmington Trust Co., Common	903,592	1.2	2,699,424 (b)	0.1
7,460	The News-Journal Co., Common (c)	846,107	1.1	24,260,000 (d)	1.1
	Total	$77,669,670	100.0%	$2,226,814,066	100.0%

(a) Based on $163.875 per share for common and $69.15 per share for preferred, the average closing prices on the New York Stock Exchange on July 10 through 14, 1972, inclusive.

(b) Based on $39.00 per share, the average closing bid price in the over-the-counter market on July 10 through 14, 1972, inclusive.

(c) The News-Journal Company, which is wholly owned, publishes the two daily newspapers in Wilmington, Delaware.

(d) Estimated fair market value based on appraisal by Vincent J. Manno, an expert in the field.

As of September 29, 1972, the market value of the Du Pont common stock held by Christiana aggregated $2,223,887,640 (based on closing price on the New York Stock Exchange on that date), an increase of 1.1% over the market value shown above. This increase reflects the per share market appreciation in Du Pont common stock from $163.875 to $165.75 over the same period. The value of the 1.123 shares of Du Pont common stock to be issued in the merger for each share of Christiana common stock has reflected such change and will continue to reflect any changes in market price for Du Pont common stock.

Du Pont

Du Pont and its subsidiaries are engaged principally in manufacturing and selling diversified lines of chemical

products and other products related thereto. A description of the business and properties of Du Pont and its subsidiaries is shown in Exhibit B.

Reasons for Considering A Merger

A holding of Christiana common stock represents essentially a holding, indirectly, of Du Pont common stock. The common stockholders of Christiana could realize certain advantages by holding their interest in Du Pont directly, in the form of Du Pont common stock, rather than indirectly via ownership of Christiana common stock, as follows:

1. *Market value of the securities held would tend to reflect their full intrinsic value*—Christiana common stock has traditionally traded at a discount compared to the market value of the net assets underlying the Christiana common stock. Over the two years preceding April 28, 1972, the date on which it was announced publicly that a possible merger would be considered, this discount generally was in the range of 20% to 25%—and was 23% on that date. With the Christiana interest in Du Pont held directly by Christiana stockholders via ownership of Du Pont common, this market price discount would be eliminated.

2. *Securities held would be more readily marketable*—Christiana common stock is traded in limited volume in the over-the-counter market. Du Pont common stock has a broad market on the New York Stock Exchange and more limited markets on other exchanges.

3. *Income would be increased*—Dividends paid by Du Pont to Christiana must be reduced by the Federal intercorporate dividend tax (currently at an effective rate of 7.2%) and other (relatively minor) operating expenses of Christiana before they can be passed on by Christiana to the Christiana stockholders.

In order that Christiana common stockholders might realize these advantages, Christiana proposed to Du Pont in April 1972 that a merger of the two companies be considered.

Du Pont agreed to consider such a merger because of the possible advantages to it. Simplification of corporate procedures (e.g., elimination of filing requirements in connection with the Investment Company Act of 1940) would be achieved and there would be a broader market for Du Pont common stock by reason of the dispersion of the large single block of Du Pont common held by Christiana. In addition, considering the potential advantages to Christiana, Du Pont anticipated that it could obtain some financial benefit from the merger, resulting in an improvement of Du Pont earnings per share, to provide Du Pont, overall, sound business reasons for the merger and an attractive proposal to present to its common stockholders for consideration.

Merger Negotiations

The merger negotiations were structured with a view to ensuring, as completely as practicable, that the terms of any agreement to merge would be the result of arm's-length bargaining and free of conflicts of interest. Particular care in this respect was considered necessary not only because Christiana is a major stockholder of Du Pont, but also because five* of the twenty-six Du Pont directors are also directors of Christiana and seven additional Du

* Walter S. Carpenter, Jr., L. du P. Copeland, Irénée du Pont, Jr., George P. Edmonds and Crawford H. Greenewalt.

Pont directors are Christiana stockholders. Moreover, nine of the eleven Christiana directors own Du Pont stock. (Data regarding holdings of Du Pont and Christiana stock by Du Pont directors and Christiana directors are shown in Exhibit E.) These circumstances indicated that especial effort would be desirable to assure that the terms of any agreement to merge would be fair and reasonable for all parties affected, and, accordingly, Du Pont and Christiana proceeded as follows with respect to the merger negotiations:

1. Du Pont and Christiana each appointed a special committee of its Board to negotiate and submit recommendations with respect to the proposed merger. In the case of each company, the special Board committee consisted of two directors with no director, officer or employee relationship with the other company. Christiana appointed to its committee Mr. A. Felix du Pont, Jr., a Vice President and director of Christiana, and Mr. Edward B. du Pont, an Assistant Treasurer and director of Christiana. Du Pont appointed to its committee Mr. Charles B. McCoy, Chairman of the Board and President of Du Pont, and Mr. Irving S. Shapiro, a Senior Vice President and director of Du Pont.

2. The special Board committees engaged investment banking firms as financial advisors to make independent studies and recommendations regarding a suitable range of merger terms. Morgan Stanley & Co., which firm has advised both Christiana and Du Pont on financial matters for a number of years, was engaged to advise Du Pont and Christiana jointly in such respect. Kidder, Peabody & Co. Incorporated was engaged to advise Christiana separately on the matter. The First Boston Corporation was engaged to advise Du Pont separately on the matter.

3. Du Pont directors who also are directors of Christiana, as well as Du Pont directors who own Christiana stock, did not participate in discussion and decision of the Du Pont Board regarding the merger proposal.

The special Board committees of Du Pont and Christiana had discussion with all of the financial advisors regarding the scope of their studies, factors considered, and ranges of merger terms they considered fair and reasonable. The special Board committees each received copies of the reports of each of the financial advisors. Merger negotiations then were undertaken by the special Board committees and resulted in proposed terms of a merger which were approved in principle on July 17, 1972 by the Boards of Directors of Du Pont and Christiana. All Christiana directors present at the meeting (ten of the eleven members of the Board) participated in and voted on the matter, including the five who are also directors of Du Pont.

The proposed merger terms reflect agreement that the value of Christiana's net assets for purposes of the merger should be as follows:

Net Asset Value of Christiana:	
Security holdings (as shown herein under "Description of Christiana and Du Pont")	$2,226,814,066
Other assets (as of June 30, 1972):	
Cash and cash equivalents, less current liabilities	5,981,367
Deferred charge—claim for tax refund	11,723,013
Total Net Asset Value of Christiana	2,244,518,446
Less Adjustments:	
Adjustments discussed herein under "Claim for Tax Refund"	(12,723,013)
Adjustments discussed herein under "Disposition of Certain Assets"	(7,619,606)
Adjustments discussed herein under "Merger Expenses"	(750,000)
Adjusted Net Asset Value of Christiana	$2,223,425,827

The proposed merger terms are such as to provide Christiana stockholders shares of Du Pont common stock with market value equal to 97½% of Christiana's adjusted net asset value in exchange for their Christiana shares. While this reflects a 2½% discount from Christiana's adjusted net asset value for purposes of the merger, the effective net discount to be borne by Christiana stockholders will be only 1.8% as indicated below.

	Amount (dollars in millions)	*% of Adjusted Net Asset Value*
Discount reflected in merger terms	$55.6	2.5%
Portion of discount that will be applicable to the Du Pont shares issued to Christiana stockholders, which portion, accordingly, will be recaptured by such Christiana stockholders	15.6	.7
Effective net discount	$40.0	1.8%

The $55.6 million discount reflected in the merger terms is equivalent to $1.18 per share of Du Pont common stock outstanding, based on the 47,257,310 shares outstanding (excluding shares held in treasury) at June 30, 1972, after giving effect to the merger.

When the merger becomes effective, each share of Christiana preferred stock will be converted into Du Pont common stock having a then market value of $120 and, in addition, an amount in cash equal to the dividend accrued and unpaid. Each share of Christiana common stock will be converted into 1.123 shares of Du Pont common stock and, in addition, a pro rata portion of any shares of Du Pont common stock distributed in any Contingent Share Distribution, as discussed herein under "Claim for Tax Refund". The 1.123 conversion ratio for Christiana common stock was calculated as follows:

Adjusted net asset value of Christiana (see above)	$2,223,425,827
Less—discount @ 2½%	55,585,646
Value of Christiana for purposes of the merger	2,167,840,181
Less—portion applicable to Christiana preferred stock (106,500 shares @ $120 a share)	12,780,000
Value of Christiana applicable to Christiana common stock	2,155,060,181
Number of Du Pont common shares with equivalent value, at $163.875 a share (see "Description of Christiana and Du Pont")	13,150,634
Number of shares of Christiana common stock outstanding	11,710,103
Number of Du Pont common shares into which each Christiana common share will be converted	1.123

The proposed merger terms fall within the range recommended by each of the three financial advisors and each such advisor has stated that in its opinion the proposed terms are fair and reasonable.

Financial Statements

When the merger becomes effective, the assets and liabilities of Christiana will be recorded on the books of Du Pont, the surviving corporation, using the purchase method of accounting. Financial statements of Du Pont and Christiana are shown in Exhibit C.

The following Pro Forma Combined Statement of Income and condensed Pro Forma Combined Balance Sheet, both unaudited, for Du Pont and Christiana give effect to the proposed merger on the basis of the terms described in this Proxy Statement but without reflecting the effect of any Contingent Share Distribution. The Pro Forma Combined Statement of Income gives retroactive effect to the proposed merger through elimination of the effect of intercompany transactions (i.e., Du Pont dividends received by Christiana and related taxes) and dividends paid by Christiana but without reflecting expenses of the merger. The pro forma combined financial statements should be read in conjunction with the financial statements of Du Pont and Christiana set forth in Exhibit C.

Pro Forma Combined Statement of Income
(Dollars in millions, except per share)

	Six Months Ended June 30, 1972	*Year Ended December 31, 1971*
Net Sales	$2,160.1	$3,848.2
Other Income	32.1	64.4
Total	2,192.2	3,912.6
Less:		
Cost of Goods Sold and Other Operating Charges	1,353.7	2,429.9
Selling, General and Administrative Expenses	224.6	430.5
Provision for:		
Depreciation and Obsolescence	196.4	373.1
"B" Bonus (amounts tentatively available for credit, or credited, to the Fund)	23.9	34.6
Interest on Borrowings	9.4	14.8
Total	1,808.0	3,282.9
Earnings Before Taxes on Income	384.2	629.7
Less: Provision for Taxes on Income	170.7	272.8
Net Income	213.5	356.9
Dividends on Preferred Stock	5.0	10.0
Amount Earned on Common Stock	$ 208.5	$ 346.9
Earnings per Share of Common Stock	$ 4.41	$ 7.37
Book Value per Share of Common Stock	$ 63.11	
Actual Du Pont Earnings per Share of Common Stock	$ 4.39	$ 7.33

PRO FORMA COMBINED BALANCE SHEET
At June 30, 1972
(Dollars in millions)

ASSETS

	Du Pont	*Christiana*	*Pro Forma Adjustments*	*Pro Forma Combined*
CURRENT ASSETS	$1,745.2	$ 6.3		$1,751.5
PLANTS AND PROPERTIES, Net of Accumulated Depreciation and Obsolescence	2,047.5			2,047.5
OTHER ASSETS				
Du Pont	301.5			301.5
Christiana:				
Investment in—				
Du Pont Common and Preferred		75.9	$(75.9)(a)	
Wilmington Trust Company and The News-Journal Company		1.8	17.5 (b)	19.3
Deferred Charge		11.7	(11.7)(c)	
Total Other Assets	301.5	89.4	(70.1)	320.8
TOTAL	$4,094.2	$95.7	$(70.1)	$4,119.8
LIABILITIES				
CURRENT LIABILITIES	$ 493.6	$ .3	$ 2.5 (d)	$ 496.4
LONG-TERM BORROWINGS	215.5			215.5
OTHER LIABILITIES	180.4			180.4
STOCKHOLDERS' EQUITY				
Preferred Stock—$3.50 and $4.50 Series	238.9		(1.6)(a)	237.3
Preferred Stock—7%		10.7	(10.7)	
Common Stock—$5 par value	237.8		(.9)(a)	236.9
Common Stock—$1.25 par value		14.6	(14.6)	
Amount Paid-in, In Excess of Par or Stated Value	215.2		25.3 (e)	240.5
Reinvested Earnings	2,512.8	70.1	(70.1)	2,512.8
Total Stockholders' Equity	3,204.7	95.4	(72.6)	3,227.5
TOTAL	$4,094.2	$95.7	$(70.1)	$4,119.8

(a) Reflects retirement of 13,417,120 shares of Du Pont common stock and 16,256 shares of Du Pont $4.50 preferred stock, all of which are presently owned by Christiana. "Common Stock—$5 par value" also reflects issuance of an estimated 13,228,620 shares of Du Pont common stock.

(b) Investments in Wilmington Trust Company and The News-Journal Company have been adjusted to their quoted market and appraised values, respectively, less Du Pont's estimated costs of disposition of these investments as discussed herein under "Disposition of Certain Assets".

(c) Adjustment to reflect claim for tax refund at no value for purposes of the proposed merger as described herein under "Claim for Tax Refund".

(d) To establish reserves of $1.0 representing provision for expenses to pursue Christiana tax claim and $1.5 representing provision for estimated merger expenses.

(e) Reflects (1) the estimated fair value of Christiana's net assets excluding Du Pont common and preferred stock plus (2) stated value of shares of Du Pont preferred stock retired as a result of the merger and par value of the excess of the number of shares of Du Pont common stock retired as a result of the merger over the number of shares of Du Pont common stock estimated to be issued as a result of the merger, reduced by (3) DuPont's estimated merger expenses.

Comparative Per Share Data

The following tabulation sets forth certain actual and pro forma (after giving effect to the merger) per share net earnings, dividend and market value data for Du Pont and Christiana for the periods and dates indicated. The per share data are based on the actual and pro forma financial statements appearing elsewhere in this Proxy Statement and this tabulation should be read in conjunction therewith:

	Six Months Ended June 30, 1972	*Year Ended December 31, 1971*
Du Pont Common Stock		
Net earnings per share:		
Actual	$ 4.39	$ 7.33
Pro forma	4.41	7.37
Dividends per share:		
Actual	$ 2.50	$ 5.00
Christiana Preferred Stock		
Dividends per share:		
Actual	$ 3.50	$ 7.00
Pro forma (a)	1.83	3.66
Market value per share at end of period:		
Actual	$100.00	$100.00
Pro forma	120.00	120.00
Christiana Common Stock		
Net earnings per share:		
Actual	$ 2.64	$ 5.28
Actual, adjusted to equity method of accounting (b)	4.66	7.76
Pro forma (c)	4.95	8.28
Dividends per share:		
Actual	$ 2.50	$ 5.25
Pro forma (c)	2.81	5.62
	April 28, 1972 (e)	*July 17, 1972 (f)*
Market Value Per Share: (d)		
Market value of 1.123 shares of Du Pont common stock to be exchanged for each share of Christiana common stock	$188.94	$184.73(g)
Market value of a share of Christiana common stock	147.00	167.50
Increase in market value:		
Amount	$ 41.94	$ 17.23
Percent	28.5%	10.3%

(a) Reflects an estimated exchange ratio of .7323 shares of Du Pont common stock for each share of Christiana preferred stock (based on average closing price for Du Pont common on the New York Stock Exchange for the five trading days preceding July 17, 1972). The basis for the actual exchange ratio is described herein under "Matters To Be Considered".

(b) Christiana's actual net earnings adjusted to include equity in the undistributed earnings of Du Pont and The News-Journal Company.

(c) Reflects an exchange ratio of 1.123 shares of Du Pont common stock for each share of Christiana common stock as described herein under "Merger Negotiations".

(d) Based on closing market price for Du Pont common stock on the New York Stock Exchange and closing bid price for Christiana common stock in the over-the-counter market on the respective dates.

(e) Announcement was made on this date, after the close of trading on the New York Stock Exchange, that merger discussions would be undertaken.

(f) On this date, the proposed merger was approved in principle by the Boards of Directors of Du Pont and Christiana and the merger terms were publicly announced after the close of trading on the New York Stock Exchange.

(g) The adjusted net asset value of Christiana common stock for purposes of the merger determined as set forth herein under "Merger Negotiations" was $188.78 per share.

MARKET PRICES OF SECURITIES.

The following tabulations set forth the high and low market prices of Du Pont common stock, on the New York Stock Exchange, as reported by the *Commercial and Financial Chronicle,* and the range of quoted bid and asked prices for Christiana common stock and preferred stock in the over-the-counter market, as furnished by National Quotation Bureau, Inc.

Du Pont	*Common Stock*	
	High	*Low*
1970:		
1st Quarter	$108.75	$ 92.50
2nd Quarter	121.50	97.13
3rd Quarter	128.00	111.00
4th Quarter	134.25	114.00
1971:		
1st Quarter	148.00	129.50
2nd Quarter	152.00	134.75
3rd Quarter	158.00	139.50
4th Quarter	157.25	133.38
1972:		
1st Quarter	175.50	144.25
2nd Quarter	176.50	159.13
3rd Quarter	184.38	160.00
Closing price		
April 28 (a)	168.25	
July 17 (b)	164.50	
September 29 (c)	165.75	

Christiana	Common Stock				Preferred Stock			
	Bid		Asked		Bid		Asked	
1970:	High	Low	High	Low	High	Low	High	Low
1st Quarter	$ 99.00	$ 85.00	$103.00	$ 88.00	$ 99.00	$ 94.00	$103.00	$ 97.00
2nd Quarter	107.00	90.00	109.00	93.00	99.00	88.00	104.00	91.00
3rd Quarter	112.00	100.00	115.00	103.00	96.00	88.00	100.00	91.00
4th Quarter	113.00	101.00	117.00	104.00	99.00	95.00	102.00	98.00
1971:								
1st Quarter	129.50	112.00	131.00	114.00	106.00	97.00	109.00	100.00
2nd Quarter	129.00	120.00	138.00	123.00	106.00	95.00	110.00	99.00
3rd Quarter	141.50	122.50	143.50	124.50	100.00	94.00	105.00	100.00
4th Quarter	136.00	116.00	138.00	118.00	100.00	97.00	104.00	102.00
1972:								
1st Quarter	142.00	120.00	145.00	123.00	99.00	98.00	104.00	101.25
2nd Quarter	166.50	140.00	173.00	143.00	102.00	97.00	106.00	102.00
3rd Quarter	195.50	160.00	205.50	165.50	106.00	100.00	none	none
Closing bid price (d)								
April 28 (a) ...	147.00				100.00			
July 17 (b) ...	167.50				100.00			
September 29 (c)	176.00				100.00			

(a) Announcement was made on this date, after the close of trading on the New York Stock Exchange, that merger discussions would be undertaken.

(b) On this date, the proposed merger was approved in principle by the Boards of Directors of Du Pont and Christiana and the merger terms were publicly announced after the close of trading on the New York Stock Exchange.

(c) Latest practicable date prior to issuance of th is Proxy Statement.

(d) Closing bid prices of Christiana common stock are as reported in *The Wall Street Journal*, and of Christiana preferred stock are as reported in *The Mor ning News*, Wilmington, Delaware.

INVESTMENT COMPANY ACT OF 1940

The Investment Company Act of 1940 ("Act") contains comprehensive provisions regulating such matters as the capital structure, management and operations of companies primarily engaged in investing, holding or trading in securities. The Act prohibits a merger transaction between a registered investment company, such as Christiana, and an affiliated person of that registered investment company, such as Du Pont, unless upon application the Securities and Exchange Commission ("Commission") has granted an order exempting the merger transaction from the provisions of the Act. Christiana and Du Pont filed with the Commission a joint application which contained financial data including copies of the reports of the financial advisors, requesting such an exemption order. A copy of the notice of the Commission dated October 3, 1972 with respect to the requested exemption order was mailed promptly after such date to each stockholder of Du Pont and Christiana. On , 1972 the Commission granted the requested order of exemption in which it found, pursuant to the Act, that the terms of the proposed plan of merger are reasonable and fair and do not involve overreaching on the part of any person concerned.

On the effective date of the merger, Christiana's corporate existence will cease; accordingly, Christiana has requested an order of the Commission terminating Christiana's registration as an investment company to be issued upon satisfactory demonstration to the Commission that all business activity pertaining to Christiana has been concluded and that a majority of Christiana's voting securities has approved a change in Christiana's business so as to cease to be an investment company. As long as Christiana continues to be a registered investment company, the Act and the Commission's broad regulatory powers thereunder

will apply. However, as stockholders of Du Pont following consummation of the merger, former Christiana shareholders will not be afforded the protection of the Act.

Approval of the Agreement of Merger by the stockholders of Christiana will include as a part thereof approval of termination of Christiana's business as an investment company. The Board of Directors of Christiana has determined that, in its opinion, the advantages of the merger outweigh any possible disadvantages resulting from termination of Christiana's status as a registered investment company.

Recommendation of the Board of Directors

The Board of Directors of Du Pont, with the twelve directors who also are directors of Christiana or who own Christiana stock not participating, considered the merger proposal and is of the opinion that the proposed merger is desirable and that the terms of the merger are fair and reasonable. *The Board of Directors, as so constituted and with the fourteen participating directors voting unanimously, approved the Agreement of Merger and recommends that you vote "FOR" adoption of the Agreement of Merger by voting in favor of the following resolution which will be presented at the meeting:*

> Resolved, that the Agreement of Merger providing for the merger of Christiana Securities Company into E. I du Pont de Nemours and Company as approved on , 1972 by the Board of Directors subject to the approval of stockholders, and as set forth in the copy of the Agreement of Merger appended to the proxy statement mailed in connection with this meeting, including the provision therein for the increase in authorized common stock and for the reduction of capital, hereby is approved and adopted.

Christiana has advised Du Pont that it presently intends to vote the shares of Du Pont common stock owned by Christiana in favor of the foregoing resolution, and Wilmington Trust Company has advised Christiana that [to be completed with any information received as to the voting intent of the Bank].

The Board of Directors of Christiana is recommending to its stockholders that they vote in favor of the adoption of the Agreement of Merger at a special meeting of Christiana stockholders to be held , 1972.

Claim for Tax Refund

Christiana filed suit in the United States District Court in Wilmington, Delaware on December 23, 1969 for the refund of a substantial amount of Federal income taxes and interest. A deferred charge relating to this claim for tax refund is carried on its books by Christiana in the amount of $11,723,013. The claim for tax refund, amounting to approximately $21 million, plus statutory interest thereon, principally involves a controversy as to the fair market value for Federal income tax purposes of the very large blocks of General Motors common stock received by Christiana in 1962, 1964 and 1965 as a result of the General Motors divestiture distribution by Du Pont. Counsel for the Federal government and for Christiana have discussed the possibility of settlement of this tax claim. Christiana has made an offer of settlement for refund of approximately $9 million to Christiana, but no such settlement has been approved or currently appears to be in prospect.

Christiana and Du Pont know of no reasonable method to determine at this time the fair value of Christiana's tax claim, because there is no way of predicting the amount, if any, that will ultimately be recovered

with respect thereto. Therefore, the merger terms contemplate that the tax claim, together with $1,000,000 of Christiana's cash to be reserved to cover expenses to pursue the claim, will be treated at the time of the merger as having no value. Accordingly, in determining the adjusted net asset value of Christiana for purpose of the merger, Christiana's net asset value was reduced as follows with respect to the claim for tax refund:

Amount carried on Christiana books as a deferred charge with respect to the tax claim	$11,723,013
Cash reserved for tax claim expenses	1,000,000
Total	$12,723,013

The tax claim and related cash reserved for expenses will become the property of Du Pont on the effective date of the merger, but a Tax Claim Committee, consisting of the present directors of Christiana and successors thereof elected by those remaining in office to fill any vacancies, will be established to manage, with assistance of counsel and on behalf of the former Christiana common stockholders, matters pertaining to pursuit of the tax claim. Du Pont will not participate in decisions regarding litigation or other developments with respect to the tax claim. The Tax Claim Committee will have complete responsibility for all decisions concerning the settlement or prosecution of the tax claim.

Du Pont will use the funds reserved for expenses for payment of expenses incurred by the Tax Claim Committee. Upon settlement of the tax claim, any residue of such funds, together with funds equivalent to net proceeds from settlement of the tax claim, including certain tax benefits to Du Pont and subject to certain limits specified in the Agreement of Merger, will be used to determine a

number of shares of Du Pont common stock having corresponding value and such shares will be delivered to an agent appointed for the purpose. The agent will distribute these additional shares of Du Pont common stock (Contingent Share Distribution) to the former Christiana common stockholders in proportion to the Du Pont common stock received by them on the effective date of the merger. The price for Du Pont common stock to be used for the foregoing determination will be the average of the closing prices for Du Pont common stock on the New York Stock Exchange for the ten trading days preceding the date on which refund payment by the Government is received by Du Pont or, if no refund is to be received, the date on which judgment to that effect becomes final. In the latter event, only a residue of the funds reserved for expenses could be available for distribution.

If the tax claim is not settled on or before the 150th day preceding the fifth anniversay of the effective date, Du Pont will negotiate in good faith with the Tax Claim Committee to determine the fair value of the tax claim at such time. In the event that Du Pont and the Tax Claim Committee are unable to agree on an amount before the 120th day preceding the fifth anniversary of the effective date, each will promptly deliver a notice to the other designating one appraiser. The two appraisers so designated will, in turn, select a third appraiser who will serve as chairman. If the designated appraisers cannot agree upon the third appraiser, the American Arbitration Association will be requested to appoint a third appraiser. No later than the tenth business day preceding the fifth anniversary of the effective date, the appraisers will deliver to Du Pont and the Tax Claim Committee a statement specifying the then fair value of the tax claim. The decision of a majority of such appraisers will be final unless a majority

are unable to agree, in which event the determination of the chairman will govern. When agreement as to the fair value of the tax claim is reached between Du Pont and the Tax Claim Committee or, in the absence of such agreement, the fair value is determined by the appraisers, a distribution of additional Du Pont common shares based thereon will be made.

If the Contingent Share Distribution is made more than one year after the effective date of the merger, a portion of such Contingent Share Distribution will be treated as interest paid with respect to the remainder of the distribution.

Disposition of Certain Assets

In the merger, Du Pont will acquire from Christiana 69,216 shares (3.5%) of the Wilmington Trust Company common stock and all the outstanding stock of The News-Journal Company. Wilmington Trust Company is the trustee for the Du Pont pension fund and the Du Pont thrift plan and, in any event, Du Pont has no interest in maintaining an investment in bank stock. The News-Journal Company publishes the only daily newspapers in Wilmington, Delaware, Du Pont's headquarters city. Du Pont intends to hold these two investments for only the period required for orderly disposition thereof.

In determining the adjusted net asset value of Christiana for purposes of the merger, Christiana's net asset value was reduced to reflect anticipated expenses of disposal of the Wilmington Trust Company stock (estimated to amount to 3% of market value) and tax of 30% on the capital gains that would result from sale of the stock of the Wilmington Trust Company and The News-Journal Company at the values reflected for such assets for purposes of the merger. Adjustments made for this purpose are summarized below:

Estimated expenses of disposal of Wilmington Trust Company stock	$ 80,983
Estimated capital gains tax upon sale of—	
Wilmington Trust Company stock	514,455
The News-Journal Company stock	7,024,168
Total	$7,619,606

Merger Expenses

Christiana and Du Pont will incur certain expenses in connection with the proposed merger, consisting principally of fees of the financial advisors and legal counsel and printing and mailing expenses, estimated to total $1,500,000. The special Board committees agreed that it would be equitable for Christiana and Du Pont to share the total estimated merger expenses equally. Accordingly, in determining the adjusted net asset value of Christiana for purposes of the merger, Christiana's net asset value was reduced $750,000 with respect to merger expenses.

Retirement of Shares and Effect on Capital

Approval of the Agreement of Merger by stockholders of Du Pont will include as part thereof approval of a reduction of the capital of Du Pont. Article Fifth, paragraph (e), of the Agreement of Merger provides for the retirement and restoration to the status of authorized and unissued shares of the preferred and common stock of Du Pont held by Christiana on the effective date and received by Du Pont in the merger, and that the capital of Du Pont shall be automatically reduced by the aggregate amount of capital attributable on the effective date to (1) the shares of preferred stock then retired, at the stated value thereof, and (2) the shares of common stock then retired, at par value thereof; the reduction of capital to have the same force and effect as if separately submitted to the

stockholders pursuant to Section 244 of the Delaware General Corporation Law. The reduction in compliance with Delaware law is necessary to fully reflect the retirement of the Du Pont stock acquired from Christiana in the merger. A certificate of reduction of capital in accordance with Delaware law will be filed with the Secretary of State of Delaware as soon as practicable after the merger becomes effective.

Apart from the 13,417,120 shares of Du Pont common stock and 16,256 shares of Du Pont preferred stock, $4.50 series, which will be retired by reason of the merger, approximatey 13,228,620 shares of authorized and unissued Du Pont common stock will be issued to holders of Christiana capital stock. Accordingly, the merger will result in approximately 188,500 fewer shares of Du Pont common stock being outstanding, exclusive of any shares of Du Pont common stock that may be distributed in any Contingent Share Distribution.

Tax Consequences of Merger

An application has been submitted to the Internal Revenue Service jointly by Du Pont and Christiana requesting rulings as to certain Federal income tax consequences of the merger. Du Pont and Christiana do not intend to make the merger effective unless satisfactory rulings from the Internal Revenue Service are received. Such rulings shall be deemed satisfactory to Du Pont and Christiana if they provide that:

(a) No gain or loss will be recognized to Christiana upon the transfer of its assets to and the assumption of its liabilities by Du Pont pursuant to the Plan, and no gain or loss will be recognized to Christiana upon the distribution of Du Pont common stock and

cash to the shareholders of Christiana pursuant to the Plan;

(b) No gain or loss will be recognized to Du Pont upon the issuance of its common stock pursuant to the Plan;

(c) The basis to Du Pont of the assets acquired from Christiana pursuant to the Plan will be the same as the basis of such assets to Christiana immediately before the effective date of the merger;

(d) The holding period to Du Pont of the assets acquired from Christiana pursuant to the Plan will include the holding period of such assets to Christiana;

(e) No gain or loss will be recognized to the holders of Christiana preferred stock upon the conversion of such stock in accordance with the Plan, except that such ruling shall be deemed to be satisfactory notwithstanding that it states that the cash received by such holders will be taxable to them as capital gain or ordinary income;

(f) No gain or loss will be recognized to the holders of Christiana common stock upon the conversion of such stock into Du Pont common stock, including stock, if any, received in the Contingent Share Distribution but excluding any such stock treated as interest;

(g) The basis of the Du Pont common stock (except for any portion of the Contingent Share Distribution treated as interest) received by the holders of the Christiana preferred stock and of the Christiana common stock will be the same as the basis of the Christiana preferred stock or common stock converted

thereinto, except that such ruling shall be deemed to be satisfactory notwithstanding that it states or indicates that adjustments are to be made (1) for the cash received by the holders of the Christiana preferred stock, (2) for the stockholder's interest in, and for the receipt of, the Contingent Share Distribution in the case of the holders of the Christiana common stock, and (3) for the gain, if any, recognized to the holders of the Christiana preferred stock; and

(h) The holding period of the Du Pont common stock (except for any portion of the Contingent Share Distribution treated as interest) received by the stockholders of Christiana will include the period during which the stock converted thereinto was held, provided that the stock so converted was a capital asset in the hands of the respective stockholder.

Counsel to Du Pont has advised that the consummation of the merger will have no Federal income tax consequences to Du Pont stockholders in their status as such.

Counsel to Christiana has advised that gain or loss will be recognized to Christiana common and preferred stockholders who sell fractional share interests in Du Pont common stock.

Counsel to Christiana has advised that a Christiana preferred stockholder who exercises his statutory right of appraisal as described herein under "Rights of Christiana Preferred Stockholders Objecting to the Merger" will recognize gain or loss for Federal income tax purposes measured by the difference between the amount received by him for his Christiana preferred stock and his basis for such stock, except that under certain circumstances the entire amount received by such stockholder may be taxable as ordinary income. The Federal income tax consequences to each dissenting stockholder may depend upon (a) the number of shares and classes of Du Pont stock held by such stockholder prior to the merger, (b) the number of shares of Christiana common stock owned if such dissenting stockholder owns both Christiana preferred and common stock, and (c) the number of shares and classes of Christiana and Du Pont stock held by certain related individuals or entities referred to below (and, in the case of any such related Christiana preferred stockholders, whether or not such related stockholders dissent). For this purpose, a dissenting Christiana stockholder may be treated as owning stock of Christiana or Du Pont held by certain related individuals, estates, trusts, partnerships and corporations, or stock of Christiana or Du Pont which he has an option to acquire, pursuant to the rules set forth in Section 318(a) of the Internal Revenue Code and Regulations thereunder. Christiana preferred stockholders who propose to exercise their statutory rights of appraisal are urged to consult their own tax counsel with respect to their particular situations.

Because of the complexities of the tax consequences of the merger, Christiana stockholders are urged to consult their own tax counsel with respect to their particular situations under Federal and any applicable state or local income tax laws.

Information Concerning Directors

The Agreement of Merger provides that Du Pont shall be the surviving corporation and that the Board of Directors of Du Pont on the effective date of the merger shall remain such until their respective successors are duly elected and qualified. The following tabulation sets forth the directors of Du Pont, their principal occupation and the date each was elected a director of Du Pont.

Name and Principal Occupation	*Director Since*
WALTER J. BEADLE, retired, former Vice President and member of Executive Committee	1946
WALTER S. CARPENTER, JR., retired, Honorary and former Chairman of Board of Directors and former President*	1919
W. SAM CARPENTER, III, retired; member of Finance Committee	1967
LAMMOT DU P. COPELAND, retired, former Chairman of Board of Directors and President; member of Finance Committee*	1942
JOSEPH A. DALLAS, Senior Vice President, member of Executive Committee of DuPont; Director of Remington Arms Company, Inc.; Director of Du Pont of Canada Limited	1968
DAVID H. DAWSON, Senior Vice President, member of Executive Committee of Du Pont; Director of Remington Arms Company, Inc.	1955
EMILE F. DU PONT, retired; member of Finance Committee and Bonus and Salary Committee	1944
IRÉNÉE DU PONT, JR., Senior Vice President, member of Executive Committee*	1959
GEORGE P. EDMONDS, retired, Honorary and former Chairman of Board of Directors of Wilmington Trust Company, Wilmington, Delaware; member of Finance Committee of Du Pont*	1966
EDWIN A. GEE, Senior Viee President, member of Executive Committee	1969
WALLACE E. GORDON, retired, former Vice President and member of Executive Committee	1965
CRAWFORD H. GREENEWALT, Chairman of Finance Committee; retired, former Chairman of Board of Directors and President*	1942
CARYL P. HASKINS, retired, former President of Carnegie Institution of Washington and Research Director of Haskins Laboratories, Inc.	1971

* Also a director of Christiana.

Name and Principal Occupation	*Director Since*
ROBERT L. HERSHEY, member of Committee on Audit and Bonus and Salary Committee; retired, former Vice President and member of Executive Committee	1958
GEORGE E. HOLBROOK, member of Finance Committee and Bonus and Salary Committee; retired former Vice President and member of Executive Committee	1958
HOWARD W. JOHNSON, Chairman of Massachusetts Institute of Technology Corporation; member of Bonus and Salary Committee of Du Pont	1972
EDWARD R. KANE, Senior Vice President, Vice Chairman of Executive Committee, member of Finance Committee	1969
WM. WINDER LAIRD, civic leader, philanthropist; member of Committee on Audit	1965
SAMUEL LENHER, retired, former Vice President and member of Executive Committee	1955
CHARLES B. MCCOY, Chairman of Board of Directors and President; Chairman of Executive Committee and member of Finance Committee	1961
BERNARD PEYTON, retired, former Chairman of Board of Directors of New York Air Brake Company	1955
R. RUSSELL PIPPIN, Chairman of Committee on Audit; retired, former Vice President and member of Executive and Finance Committees	1964
ROBERT L. RICHARDS, Chairman of Bonus and Salary Committee and member of Committee on Audit; retired, former Vice President and member of Executive Committee	1954
IRVING S. SHAPIRO, Senior Vice President, member of Executive Committee	1970
HUGH R. SHARP, JR., member of Finance Committee and Bonus and Salary Committee	1952
LESTER S. SINNESS, Senior Vice President, member of Executive Committee of Du Pont; Director of Du Pont of Canada Limited	1963

* Also a director of Christiana.

None of the directors of Christiana received any remuneration from Christiana during 1971 and no director or officer of Christiana who was not also a director or employee of Du Pont received any remuneration from Du Pont and its subsidiaries during 1971.

Exhibit E shows remuneration for the year 1971 to directors of Du Pont, including the three highest-paid officers, who received more than $30,000 from Du Pont and its subsidiaries and to all directors and officers as a group. Exhibit E also shows shares of Du Pont and Christiana stock owned beneficially, directly or indirectly, by each of the directors of Du Pont and Christiana as of September 30, 1972.

Affiliates of Christiana

The directors of Christiana and certain other stockholders of Christiana may be deemed within the meaning of the Securities Act of 1933 and Regulations thereunder to be "affiliates" of Christiana. As a result, such persons will be restricted by the Securities Act of 1933 with respect to disposition of shares of Du Pont common stock received by them in the merger. Du Pont has agreed as to such persons that upon their request, subject to specified limitations and certain conditions regarding indemnification, expenses and other matters, Du Pont will register such shares pursuant to the Securities Act of 1933 to permit public sale thereof.

In the light of the matters discussed under "Summary of Certain Interests", Du Pont has determined that it will treat Wilmington Trust Company as restricted with respect to disposition of certain of the shares of Du Pont common stock the Bank receives in the merger and will afford registration rights with respect to such shares.

Procedure for Exchange of Stock Certificates by Christiana Stockholders and Settlement of Fractional Share Interests

Du Pont stockholders, other than Christiana, will retain their present certificates for Du Pont stock.

Exchange of Certificates

Promptly after the effective date of the merger, holders of Christiana stock will receive instructions as to the procedure to be followed in surrendering certificates representing converted Christiana stock for Du Pont common stock certificates. Holders of Christiana stock certificates will be entitled, upon surrender of such certificates, to receive in exchange therefor certificates representing the appropriate number of whole shares of Du Pont common stock. Until so surrendered, each outstanding certificate (which prior to the merger represented shares of Christiana common or preferred stock) will be deemed, for all corporate purposes other than the payment of dividends, to evidence ownership of the appropriate number of shares of Du Pont common stock. No dividend payable to the holders of record shares of Du Pont common stock as of any date subsequent to the effective date of the merger will be paid to the holders of outstanding certificates representing converted Christiana common or preferred stock. Upon surrender of a Christiana certificate there will be paid to the record holder of the certificate for shares of Du Pont common stock issued in exchange therefor the amount of dividends (without interest) which previously became payable with respect to the Du Pont common stock represented by the certificate so issued.

No document will be issued to Christiana common stockholders evidencing the possible additional shares of Du Pont common stock distributable upon settlement of

Christiana's tax claim, and the interest therein is not assignable except by will or by operation of law.

Fractional Share Interests

No certificates for fractional shares of Du Pont common stock will be issued in connection with the conversion of Christiana stock. In lieu thereof, each Christiana shareholder entitled to a fractional interest in a share of Du Pont common stock will be afforded an opportunity, through [name of agent], Order Form Agent, either (1) to purchase the additional fractional interest required to make up one full share, or (2) to sell the fractional interest to which he is entitled. Stockholders entitled to fractional interests will be furnished order forms on which they may instruct the Order Form Agent on or before the 40th day following the effective date of the merger, to buy or sell fractional interests for their individual accounts. All shares held to cover fractional interests with respect to which the Order Form Agent does not receive completed order forms from the holders thereof before the close of business on such day will be sold in due course for the account of such holders.

The same procedure shall be utilized for the treatment of fractional interests arising out of any Contingent Share Distribution.

Description of Du Pont Capital Stock

The following is a summary of certain provisions and rights of holders of the capital stock of Du Pont, the surviving corporation.

Preferred Stock—(without par value—cumulative)

Dividend Rights. Holders of the Du Pont preferred stock, $4.50 series and $3.50 series, are entitled

to receive cumulative dividends declared and set apart for payment before payment of dividends on the Du Pont common stock, at the annual rates of $4.50 a share and $3.50 a share, respectively, payable quarterly on the 25th day of January, April, July and October.

Voting Rights. Holders of Du Pont preferred stock have no voting rights except as expressly provided by law, and except that in the event Du Pont shall be in default in the payment of dividends on the preferred stock for a period of six months, then until such dividends in default have been paid, the holders of preferred stock shall have the exclusive right, voting separately and as a class, to elect two directors at each meeting of the Du Pont stockholders held for the purpose of electing directors.

Liquidation Rights. In the event of any liquidation or dissolution or winding-up of Du Pont, holders of the preferred stock shall be entitled to be paid $100 a share and accumulated dividends upon an involuntary liquidation, and upon voluntary liquidation $115 a share and accumulated dividends for the $4.50 series and $107 a share and accumulated dividends for the $3.50 series.

Pre-emptive Rights. No holder of any shares of Du Pont preferred stock shall have any pre-emptive or preferential right of subscription to any shares of Du Pont stock of any class, or to any obligations convertible into shares of Du Pont stock of any class, issued or sold, nor any right of subscription to any thereof other than such, if any, as the Board of Directors in its discretion from time to time may determine.

Redemption Provisions. The Du Pont preferred stock of any series is subject to redemption in whole or in part at any time upon not less than sixty days' notice at the following prices:

$4.50 series—At $120 a share and accumulated dividends.

$3.50 series—At $102 a share and accumulated dividends.

Rank. All series of Du Pont preferred stock rank equally and are identical in all respects, except as noted above.

Common Stock—($5 par value)

Dividend Rights. Subject to the rights of the Du Pont preferred stock, holders of the Du Pont common stock are entitled to receive such dividends as the Board of Directors may declare from surplus or net earnings.

Voting Rights. Holders of the Du Pont common stock have the right to vote on all questions to the exclusion of all other stockholders, except as otherwise expressly provided by law, and except as set forth above under "Preferred Stock".

Liquidation Rights. Upon any liquidation or dissolution or winding-up of Du Pont, whether voluntary or involuntary, after payments have been made to holders of the Du Pont preferred stock, the holders of Du Pont common stock are entitled to share pro rata in the remaining assets available for distribution.

Pre-emptive Rights. Holders of Du Pont common stock have the pre-emptive right to subscribe to additional common stock except shares issued directly

in payment for property or other assets, except cash, and except that not exceeding 2,000,000 of such shares may be issued after April 13, 1970 to employees (including directors and officers) of Du Pont, and of any corporation in which Du Pont shall directly or indirectly own 50% or more of the voting stock, or to a trustee or trustees on behalf of such employees, upon payment at such price or prices, and on such terms and conditions as may be prescribed and determined by the Board of Directors, or, in the case of stock issued upon the exercise of stock options, by a duly designated standing committee of the Board. Of the 2,000,000 shares which may be so issued to employees under the Certificate of Incorporation, as amended, 525,108 have been issued or have been awarded and are awaiting issue under the Bonus Plans at June 30, 1972.

DESCRIPTION OF CHRISTIANA CAPITAL STOCK

The following is a summary of certain provisions and rights of holders of the capital stock of Christiana.

7% Cumulative Preferred Stock—($100 par value)

Dividend Rights. Holders of the Christiana preferred stock are entitled to receive cumulative dividends declared and set apart for payment before payment of dividends on the common stock, at the annual rate of $7 a share, payable quarterly on the 1st day of January, April, July and October.

Voting Rights. Holders of Christiana preferred stock have no voting rights except as expressly provided by law.

Liquidation Rights. In the event of any liquidation or dissolution or winding-up of Christiana,

whether voluntary or involuntary, holders of Christiana preferred stock shall be entitled to be paid $100 a share and accumulated dividends.

Pre-emptive Rights. No holder of any shares of Christiana preferred stock has any pre-emptive right of subscription to any securities of Christiana.

Redemption Provisions. Christiana preferred stock is subject to redemption in whole or in part at $120 a share on any dividend payment date, in such manner as the Board of Directors shall determine.

Common Stock—($1.25 par value)

Dividend Rights. Subject to the rights of Christiana preferred stock, holders of Christiana common stock are entitled to receive such dividends as the Board of Directors may declare from surplus or net profits.

Voting Rights. Holders of Christiana common stock have the right to vote on all questions to the exclusion of the holders of Christiana preferred stock, except as otherwise provided by law.

Liquidation Rights. Upon any liquidation or dissolution or winding-up of Christiana, whether voluntary or involuntary, after payment in full of the liquidation preferences of Christiana preferred stock, the holders of Christiana common stock are entitled to share pro rata in the remaining assets available for distribution.

Pre-emptive Rights. Holders of Christiana common stock have, to the extent provided for by Delaware law, pre-emptive rights of subscription to additional issues of Christiana securities.

RIGHTS OF CHRISTIANA PREFERRED STOCKHOLDERS OBJECTING TO THE MERGER

Any holder of Christiana preferred stock who objects to the proposed merger may elect to be paid the value of such stock (exclusive of any element of value arising from the expectation or accomplishment of the merger), provided that he complies with the requirements of Section 262 of the Delaware General Corporation Law. No such right applies to the holders of Christiana common stock, Du Pont common stock or Du Pont preferred stock. Any holder of Christiana preferred stock seeking to exercise such right must follow the procedure specified in Section 262, and the following description of that procedure is qualified in its entirety by express reference to the full text of Section 262 which is attached as Exhibit D to this Proxy Statement.

To be paid the value of his stock, an objecting Christiana preferred stockholder must file with Christiana, before the taking of the vote on the adoption of the Agreement of Merger, a written objection to the proposed merger. A written objection will be deemed filed only if it is mailed or delivered to Christiana and is actually received by Christiana before the taking of the vote on the Agreement of Merger. Within 10 days after the effective date of the merger, Du Pont, as the surviving corporation, will give written notice of the effectiveness of the merger to all holders of record of Christiana preferred stock who have filed with Christiana written objection to the merger. The objecting stockholder must, within 20 days after the mailing of such notice to him, demand in writing from Du Pont, as the surviving corporation, the value of his Christiana preferred stock.

If within 30 days after the above-mentioned 20-day period, Du Pont and the objecting stockholder do not

agree upon the value of his stock, either Du Pont or the stockholder may, within 4 months after expiration of said 30-day period, file a petition in the Delaware Court of Chancery demanding a determination of the value of his stock by an appraiser appointed by the Court. The costs of the appraisal, including the fees and expenses of the appraiser, but excluding any fees of counsel or experts retained by any party, may be assessed against one or more parties to the proceedings as the Court may consider equitable. The Court may also, upon application of any party, determine the amount of interest, if any, to be paid upon the value of the stock of the shareholders entitled thereto.

Certain effects of the exercise of appraisal rights are mentioned herein under "Tax Consequences of Merger".

Certain Provisions of the Plan and Agreement of Merger

The obligations of Christiana and Du Pont to consummate the merger are subject to certain conditions set forth in the Plan, including receipt of satisfactory rulings from the Internal Revenue Service (discussed herein under "Tax Consequences of Merger"), authorization for listing on the New York Stock Exchange of the shares of Du Pont common stock to be issued to the Christiana stockholders, receipt of certain legal opinions and the acuracy of certain representations made by Du Pont and Christiana as to their respective affairs at the time of the merger. The representations of the two companies as to their respective affairs at the time of the merger will terminate when the merger becomes effective. The Plan provides that either party may waive any condition to which its obligations under the Plan are subject.

The Plan and the Agreement of Merger may be modified or abandoned at any time prior to the effective date

by mutual agreement of the Boards of Directors of Du Pont and Christiana, except that the Agreement of Merger may not be amended after adoption by stockholders of either Christiana or Du Pont. The obligations of Du Pont and Christiana to consummate the merger terminate on December 31, 1972, unless the parties mutually agree to an extension.

Other Matters

The Board of Directors knows of no other matters which may be presented for stockholder action at the meeting, but if other matters do properly come before this meeting, it is intended that the persons named in the proxy will vote your stock according to their best judgment.

Exhibit A

AGREEMENT AND PLAN OF REORGANIZATION
between
E. I. DU PONT DE NEMOURS AND COMPANY
and
CHRISTIANA SECURITIES COMPANY

AGREEMENT AND PLAN OF REORGANIZATION dated this .... day of ....., 1972 (hereinafter the "Agreement") by and between E. I. DU PONT DE NEMOURS AND COMPANY, a Delaware corporation (hereinafter sometimes referred to as "Du Pont" or the "Surviving Corporation"), and CHRISTIANA SECURITIES COMPANY, a Delaware corporation (hereinafter sometimes referred to as "Christiana").

WITNESSETH:

WHEREAS, Du Pont is a corporation duly organized and existing under the laws of the State of Delaware, having been incorporated on September 4, 1915, under the General Corporation Law of Delaware, and has an authorized capital stock of 64,000,000 shares of which 60,000,000 are Common Stock and 4,000,000 are Preferred Stock;

WHEREAS, Christiana is a corporation duly organized and existing under the laws of the State of Delaware, having been incorporated on March 1, 1915, under the General Corporation Law of Delaware, and has an authorized capital stock of 13,706,500 shares of which 13,600,000 are Common Stock and 106,500 are Preferred Stock;

WHEREAS, the respective Boards of Directors of Du Pont and Christiana have adopted resolutions approving this Agreement providing, as a part hereof, for the merger of Christiana into Du Pont as contemplated hereby (hereinafter the "Merger"), such Merger to be upon the terms and conditions set forth in the Agreement of Merger attached hereto as Exhibit A, and such respective Boards of Directors have directed, subject to the conditions specified herein, that pursuant to the provisions of Section 251 of the General Corporation Law of Delaware, the Agreement of Merger be submitted to the stockholders of Du Pont and of Christiana at special meetings separately called and held for the purpose of considering and voting upon the adoption or rejection thereof; and

WHEREAS, this Agreement is intended to constitute a plan of reorganization pursuant to Section 368 of the Internal Revenue Code of 1954.

NOW, THEREFORE, in consideration of the premises and the mutual agreements, covenants and provisions herein contained, the parties hereto have agreed and do hereby agree to merge subject to the conditions hereinafter set forth, as follows:

1. Agreement to Merge.

The parties hereby agree that, subject to the terms and conditions of this Agreement, each of them shall duly execute and deliver to the other party hereto an Agreement of Merger substantially in the form attached hereto as Exhibit A and shall take appropriate action to cause such Agreement of Merger to become effective.

2. Closing.

The closing of the transaction provided for in Article 1 shall take place at the offices of Du Pont, Du Pont Build-

ing, Wilmington, Delaware, at 10:00 a.m. on December 1, 1972, or as soon thereafter as possible; provided, however, that if the Merger is not consummated on or before December 31, 1972, this Agreement, unless mutually extended in writing by the parties hereto, shall terminate without liability of any kind on the part of either party. Promptly following the closing, Christiana and Du Pont shall each cause to be filed the Agreement of Merger in final form, properly executed and acknowledged, in accordance with the provisions of the General Corporation Law of Delaware. The date on which the Agreement of Merger becomes effective pursuant to the provisions of said law is hereinafter referred to as the "Effective Date."

3. *Representations and Warranties of Christiana.*

Christiana hereby represents and warrants as follows:

3.1 *Organization.* Christiana is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and is not required to be qualified to do business in any jurisdiction; and the copies of Christiana's Certificate of Incorporation, as amended, certified by the Secretary of State of Delaware, and of Christiana's By-Laws, certified by Christiana's Secretary, which have been delivered to Du Pont, are complete and correct as of the date of this Agreement.

3.2 *Capitalization.* Christiana's authorized capital stock consists of 106,500 shares of Seven Per Cent. Cumulative Non-voting Preferred Stock of the par value of $100 per share, of which 106,500 shares are validly issued and outstanding, and 13,600,000 shares of Common Stock of the par value of $1.25 per share, of which 11,710,103 shares are validly issued and outstanding; Christiana is not

a party to any options, calls or commitments of any character relating to the purchase or sale of Christiana's authorized or issued stock.

3.3 *Authority.* The execution, delivery and performance of this Agreement by Christiana, including without limitation the merger of Christiana into Du Pont on the terms as set forth herein, have been duly and effectively authorized by the Board of Directors of Christiana, subject to adoption of the Agreement of Merger by the stockholders of Christiana, and subject to such other conditions as are provided herein.

3.4 *Financial Statements.* Christiana has delivered to Du Pont copies of the following financial statements, all of which have been prepared in accordance with generally accepted accounting principles consistently followed throughout the periods indicated:

(i) balance sheet of Christiana as at December 31, 1971, and statements of income and undistributed net income for the years ended December 31, 1971, and 1970, in each case including notes thereto, certified by Haskins & Sells, certified public accountants; and

(ii) balance sheet of Christiana as at June 30, 1972, and statement of income and undistributed net income for the six-month period ended June 30, 1972, including notes thereto, certified by Haskins & Sells, certified public accountants.

Each of the aforesaid balance sheets fairly presents as of its date the financial condition and assets and liabilities of Christiana, and each of the aforesaid statements of income and undistributed net income fairly presents the results of operations of Christiana for the period indicated.

3.5 *Absence of Undisclosed Liabilities.* Except as otherwise contemplated by this Agreement and except as and to the extent reflected or reserved against in Christiana's balance sheet as at June 30, 1972, as of the date thereof Christiana had no material liabilities or obligations (whether accrued, absolute, contingent or otherwise) of a nature customarily reflected in a corporate balance sheet prepared in accordance with generally accepted accounting principles.

3.6 *Absence of Certain Changes or Events.* Since June 30, 1972, there has not been:

(i) any change in Christiana's financial condition, assets, liabilities or business, other than changes in the ordinary course of business, none of which has been material and adverse;

(ii) any declaration, setting aside or payment of any dividend or other distribution in respect of Christiana's capital stock, except for quarterly cash dividends paid in accordance with its customary practices; and

(iii) any other event or condition of any character which has materially and adversely affected Christiana's assets or business.

3.7 *Tax Matters.* The provision made for taxes on Christiana's balance sheet as at June 30, 1972, is sufficient for the payment of all accrued and unpaid Federal, state and local taxes of Christiana, whether or not disputed, for the six-month period ended on June 30, 1972, and for all years prior thereto. Christiana's Federal income tax returns have been audited by the Internal Revenue Service for all open years to and including the year ended December 31, 1970, except for 1968 and 1969. All Federal, state

and local taxes due and payable by Christiana on or before the date of this Agreement have been paid. The Internal Revenue Service has proposed a deficiency in Federal income taxes for 1967 of approximately $89,000 which Christiana is contesting.

3.8 *Absence of Liens and Encumbrances.* Christiana has good and marketable title to all of its assets (including those reflected in Christiana's balance sheet as at June 30, 1972, except as since sold or otherwise disposed of in the ordinary course of business) free and clear of all liens, pledges or other encumbrances.

3.9 *Litigation.* Except for (i) *Christiana Securities Co. v. United States,* C. A. No. 3831 (D. Del.), and (ii) any litigation affecting Du Pont, there is no litigation, proceeding or governmental investigation pending, or, so far as known to Christiana, threatened against or relating to Christiana or its assets or business, or the transactions contemplated by this Agreement, nor is there any basis known to Christiana for any such action.

3.10 *Governmental Authorities.* Christiana is duly registered as a nondiversified management investment company under the Investment Company Act of 1940, and is in full compliance with, and not in default of the performance of any action required under such Act, the Rules and Regulations of the Securities and Exchange Commission (the "Commission") adopted thereunder or any order of the Commission entered thereunder. Christiana is not a bank holding company as defined in the Bank Holding Company Act of 1956.

3.11 *Securities.* Christiana had valid and marketable title, free of any liens and encumbrances, to the following securities as of June 30, 1972:

13,417,120 shares	Du Pont Common Stock
16,256 shares	Du Pont $4.50 Series Cumulative Preferred Stock
69,216 shares	Wilmington Trust Company Common Stock
7,460 shares	The News-Journal Company Common Stock

3.12 *The News-Journal Company.* Christiana owns all the outstanding equity securities of The News-Journal Company and such securities are validly issued, fully paid and nonassessable; such company is duly organized and validly existing under the laws of the State of Delaware and is duly qualified to do business in all states in which the nature of its business as now conducted requires it to be qualified; the balance sheet of such company as at December 31, 1971, and the statements of income for the years ended December 31, 1970, and 1971, certified by Price Waterhouse & Co., previously delivered to Du Pont, have been prepared in accordance with generally accepted accounting principles consistently followed throughout the periods indicated; such balance sheet fairly presents as of its date the financial condition and assets and liabilities of such company; such statements of income fairly present the results of operations of such company for the periods indicated; and since December 31, 1971, except for earnings trends reflected in unaudited interim financial statements delivered to Du Pont, there has not been any change in such company's financial condition, assets, liabilities, or business other than changes in the ordinary course of business, none of which has been material and adverse, or any other event or condition which has materially and adversely affected such company's assets or business.

4. Representations and Warranties of Du Pont.

Du Pont hereby represents and warrants as follows:

4.1 *Organization.* Du Pont is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, has the corporate power to carry on its business as it is now being conducted, and is qualified to do business in each jurisdiction other than Delaware where it owns any principal manufacturing plants or in which the nature of its business requires it to be so qualified. The copies of Du Pont's Certificate of Incorporation, as amended, certified by the Secretary of State of Delaware, and of Du Pont's By-Laws, certified by Du Pont's Secretary, which have been delivered to Christiana, are complete and correct as of the date of this Agreement. Du Pont has valid title to all its principal manufacturing plants and facilities and to the stock it holds of each company which, under the Rules and Regulations of the Commission promulgated pursuant to the Securities Act of 1933, constitutes a significant subsidiary (the "Significant Subsidiaries").

4.2 *Capitalization.* Du Pont's authorized capital stock consists of 4,000,000 shares of Preferred Stock without par value, of which on June 30, 1972, there were issued and outstanding 1,688,850 shares of the $4.50 Series and 700,000 shares of the $3.50 Series, and 60,000,000 shares of Common Stock of the par value of $5.00 per share, of which on June 30, 1972, there were issued and outstanding or held in treasury 47,566,594 shares.

4.3 *Authority.* The execution, delivery and performance of this Agreement, including without limitation the merger of Christiana into Du Pont, on the terms as set forth herein, have been duly and effectively authorized by the Board of Directors of Du Pont, subject to adoption of

the Agreement of Merger by the stockholders of Du Pont and subject to such other conditions as are provided herein.

4.4 *Financial Statements.* Du Pont has delivered to Christiana copies of the following financial statements, all of which have been prepared in accordance with generally accepted accounting principles consistently followed throughout the periods indicated:

(i) consolidated balance sheet of Du Pont as at December 31, 1971, and statements of income and stockholders' equity for the years ended December 31, 1971, and 1970, in each case including notes thereto, certified by Price Waterhouse & Co., certified public accountants; and

(ii) consolidated balance sheet of Du Pont as at June 30, 1972, and statement of income for the six-month period ended June 30, 1972.

Each of the aforesaid consolidated balance sheets fairly presents as of its date the financial condition and assets and liabilities of Du Pont and each of the aforesaid statements of income and stockholders' equity fairly presents the results of operations of Du Pont for the period indicated.

4.5 *Absence of Undisclosed Liabilities.* Except as otherwise contemplated by this Agreement and except as and to the extent reflected or reserved against in the consolidated balance sheet of Du Pont as at June 30, 1972, as of the date thereof Du Pont had no material liabilities or obligations (whether accrued, absolute, contingent or otherwise) of a nature customarily reflected in a corporate balance sheet prepared in accordance with generally accepted accounting principles.

4.6 *Absence of Certain Changes or Events.* Since June 30, 1972, there has not been:

(i) any change in financial condition, assets, liabilities or business of Du Pont and the Significant Subsidiaries, taken as a whole, other than changes in the ordinary course of business, none of which has been material and adverse;

(ii) any declaration, setting aside or payment of any dividend or other distribution in respect of Du Pont's capital stock, except for quarterly cash dividends paid in accordance with its customary practices; and

(iii) any other event or condition of any character which has materially and adversely affected the business or assets of Du Pont.

4.7 *Tax Matters.* The provision made for taxes on Du Pont's consolidated balance sheet as at June 30, 1972, is sufficient for the payment of all accrued and unpaid Federal, state and local taxes of Du Pont, whether or not disputed, for the six-month period ended on June 30, 1972, and for all years prior thereto. Du Pont's Federal income tax returns have been audited by the Internal Revenue Service for all open years to and including the year ended December 31, 1965. All Federal, state and local taxes due and payable by Du Pont on or before the date of this Agreement have been paid.

4.8 *Litigation.* Du Pont has delivered to Christiana a list of significant suits or proceedings pending against Du Pont. There is no other litigation, proceeding or governmental investigation pending, or, so far as known to Du Pont, threatened against or relating to Du Pont or its Significant Subsidiaries, or its or their assets or business, the effect of which would be material and adverse to the assets or business of Du Pont and the Significant Subsidiaries taken as a whole, nor is there any basis known to Du Pont for any such action.

4.9 *Disposition of Certain Assets.* It is Du Pont's present intention, following the Effective Date, to dispose of the 69,216 shares of Wilmington Trust common stock and the interest in The News-Journal Company it will acquire pursuant to the Merger, it being recognized by the parties hereto that Du Pont intends to exercise its business judgment as to the timing, manner, terms and other conditions of disposition.

5. Access and Information.

Christiana and Du Pont hereby agree that each will give to the other and to the other's counsel, accountants and other representatives, full access, during normal business hours throughout the period prior to the date of closing, to all of its properties, books, contracts, commitments and records relevant to its performance under this Agreement, and that each will furnish the other during such period with all such information concerning its affairs as such other party may reasonably request.

6. Covenants of Christiana.

Christiana hereby covenants and agrees that prior to the Effective Date, it will not, without the prior written consent of Du Pont, except as otherwise specifically provided in this Agreement:

(a) amend its Certificate of Incorporation or By-Laws;

(b) engage in any activity or transaction or incur any obligation (by contract or otherwise) except in the ordinary course of business;

(c) sell or otherwise dispose of any of the securities listed in paragraph 3.11 of Article 3;

(d) issue rights or options to purchase or subscribe to, or subdivide, any shares of its capital stock;

(e) issue or sell any shares of its capital stock; or

(f) declare any dividends on, or make any distributions in respect of, any shares of its capital stock, or purchase or acquire for value any shares of its capital stock, except that Christiana may declare and pay quarterly cash dividends on its capital stock, the amounts and dates of such declarations and payments to be determined in accordance with its customary dividend policies and practices.

7. Covenants of Du Pont.

Du Pont hereby covenants and agrees as follows:

7.1 *Certificate of Incorporation.* Prior to the Effective Date, it will not, except as otherwise consented to in writing by Christiana, adopt any amendment (other than the proposed amendment set forth in the Agreement of Merger) to its Certificate of Incorporation which would affect in any manner the preferences, rights or powers of Du Pont Common Stock, or the number of shares thereof which are authorized or outstanding.

7.2 *Authorized Shares.* It will keep continuously available such number of authorized and unissued shares of Common Stock as is necessary to make the Contingent Share Distribution referred to in Article Fifth of the Agreement of Merger.

7.3 *Exchange Listing.* It will use its best efforts to list on the New York Stock Exchange effective upon notice of issuance the shares of Du Pont Common Stock issuable pursuant to Article Fifth of the Agreement of Merger.

8. Covenants of Christiana and Du Pont.

8.1 *Applications.* Du Pont and Christiana have jointly applied to the Commission for an order or orders granting

all necessary approval and authority for the Merger and have jointly applied to the Internal Revenue Service for certain rulings with respect to the tax consequences of the Merger, and shall cooperate to the end that the requested order and rulings shall issue as promptly as possible.

8.2 *Stockholder Action.* As soon as possible after receiving a final order from the Commission as contemplated in paragraph 8.1 of this Article, Christiana shall submit the Agreement of Merger to its stockholders for the purpose of considering and acting upon the adoption thereof and Du Pont shall submit the Agreement of Merger (including as a part thereof the amendment to its Certificate of Incorporation to increase its authorized Common Stock to 65,000,000 shares) to its stockholders for the purpose of considering and acting upon the adoption thereof. Christiana and Du Pont will each supply the other with material for inclusion in their respective proxy statements describing their respective businesses which shall meet the requirements of the Investment Company Act of 1940 and the Securities Exchange Act of 1934 and the Rules and Regulations of the Commission thereunder as to proxy statements.

9. *Conditions Precedent to Obligations of Christiana.*

Each and every obligation of Christiana to be performed on or prior to the date of closing shall be subject to the satisfaction, on or before the date of closing, of the following conditions:

9.1 *Representations and Warranties.* Except for changes therein permitted or required under this Agreement, the representations and warranties of Du Pont set forth in this Agreement shall be true in all material respects as of the date hereof and as of the date of closing; Du Pont shall have performed and complied with all agreements and conditions required by this Agreement to

be performed or complied with by it prior to or on the date of closing; and Christiana shall have been furnished with a certificate of appropriate officers of Du Pont, dated the date of the closing, certifying in such detail as Christiana may reasonably request to the fulfillment of the foregoing conditions.

9.2 *Internal Revenue Service Rulings.* The Internal Revenue Service shall have issued a ruling or rulings satisfactory in form and substance to Christiana and to Dechert Price & Rhoads substantially to the following effect:

(a) No gain or loss will be recognized to Christiana upon the transfer of its assets to and the assumption of its liabilities by Du Pont pursuant to this Agreement and the Agreement of Merger, and no gain or loss will be recognized to Christiana upon the distribution by Christiana of Du Pont Common Stock and cash to the preferred shareholders of Christiana in exchange for their Christiana Preferred Stock or upon the distribution by Christiana of Du Pont Common Stock to the common stockholders of Christiana in exchange for their Christiana Common Stock;

(b) No gain or loss will be recognized to Du Pont upon the issuance of its Common Stock pursuant to this Agreement and the Agreement of Merger;

(c) No gain or loss will be recognized to the holders of Christiana Preferred Stock on the conversion of such stock in accordance with this Agreement and the Agreement of Merger, except that such ruling shall be deemed to be satisfactory notwithstanding that it states that the cash received by such holders will be taxable to them as capital gain or ordinary income;

(d) No gain or loss will be recognized to the holders of Christiana Common Stock upon the conversion of such stock into Du Pont Common Stock, including stock, if any, received in the Contingent Share Distribution (as that term is defined in the Agreement of Merger) but excluding any such stock treated as interest;

(e) The basis of the Du Pont Common Stock (except for any portion of the Contingent Share Distribution treated as interest) received by the holders of the Christiana Preferred Stock and of the Christiana Common Stock will be the same as the basis of the Christiana Preferred Stock or Common Stock converted thereinto, except that such ruling shall be deemed to be satisfactory notwithstanding that it states or indicates that adjustments are to be made (1) for the cash received by the holders of the Christiana Preferred Stock, (2) for the stockholder's interest in, and for the receipt of, the Contingent Share Distribution in the case of the holders of the Christiana Common Stock, and (3) for the gain, if any, recognized to the holders of the Christiana Preferred Stock; and

(f) The holding period of the Du Pont Common Stock (except for any portion of the Contingent Share Distribution treated as interest) received by the stockholders of Christiana will include the period during which the stock converted thereinto was held, provided that the stock so converted was a capital asset in the hands of the respective stockholder.

9.3 *Commission Order.* The Commission shall have issued a final order pursuant to the Investment Company Act of 1940, satisfactory in form and substance to Christiana and to Dechert Price & Rhoads, exempting the Merger from the provisions of Section 17 of the Act.

9.4 *Exchange Listing.* The shares of Du Pont Common Stock issuable pursuant to Article Fifth of the Agreement of Merger shall have been authorized for listing on the New York Stock Exchange upon official notice of issuance.

9.5 *Opinions of Counsel.* Christiana shall have been furnished with an opinion, dated as of the date of closing, of Charles E. Welch, Esq., Assistant General Counsel to Du Pont, as to the matters specified in (i), (ii), (iii) and (vi) below, of Covington & Burling as to the matters specified in (ii), (iii), (iv), (v) and (vi) below, and of Dechert Price & Rhoads as to such of the matters specified in (ii), (iii), (iv), (v) and (vi) below as Christiana may have requested (each of which counsel may, as to matters of Delaware law, rely upon the opinion of Mr. Welch):

(i) Du Pont is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, and has corporate power to carry on its business as it is then being conducted;

(ii) the execution, delivery and performance of this Agreement and the Agreement of Merger by Du Pont have been duly authorized and approved by all requisite action of the Board of Directors and stockholders of Du Pont, this Agreement and the Agreement of Merger have been duly executed and delivered by Du Pont and this Agreement constitutes and the Agreement of Merger when it becomes effective will constitute a valid and binding obligation of Du Pont in accordance with their terms;

(iii) all shares of Du Pont Common Stock issuable pursuant to Article Fifth of the Agreement of

Merger to holders of capital stock of Christiana will upon such issuance in accordance with this Agreement and the Agreement of Merger be validly issued, fully paid and nonassessable;

(iv) the shares of Du Pont Common Stock issuable pursuant to Article Fifth of the Agreement of Merger are not required to be registered under the Securities Act of 1933 or the Rules and Regulations of the Commission as in effect on the date of the opinion, or, if such registration is required, such registration has become effective;

(v) all necessary orders and approvals of the Commission under the Investment Company Act of 1940 have been received; and

(vi) no suit, action or other proceeding is to the best of the knowledge of such counsel pending or threatened before any court or administrative agency which, in such counsel's opinion, would result in a judgment or order preventing consummation of the Merger.

10. Conditions Precedent to Obligations of Du Pont.

Each and every obligation of Du Pont to be performed on or prior to the date of closing shall be subject to the satisfaction, on or before the date of closing, of the following conditions:

10.1 *Representations and Warranties.* Except for changes therein permitted or required under this Agreement, the representations and warranties of Christiana set forth in this Agreement shall be true in all material respects as of the date hereof and as of the date of closing; Christiana shall have performed and complied with all agreements and conditions required by this Agreement to be performed or complied with by it prior to or at the date

of closing; and Du Pont shall have been furnished with a certificate of appropriate officers of Christiana, dated the date of closing, certifying in such detail as Du Pont may reasonably request to the fulfillment of the foregoing conditions.

10.2 *News-Journal Certificate.* Du Pont shall have been furnished with a certificate of appropriate officers of The News-Journal Company dated the date of closing to the effect that since December 31, 1971, except for earnings trends reflected in unaudited interim financial statements delivered to Du Pont, there has been no material and adverse change in the business and assets and in the condition and operations, financial or otherwise, of such company.

10.3 *Internal Revenue Service Rulings.* The Internal Revenue Service shall have issued a ruling or rulings satisfactory in form and substance to Du Pont and to Covington & Burling substantially to the following effect:

(a) No gain or loss will be recognized to Christiana upon the transfer of its assets to and the assumption of its liabilities by Du Pont pursuant to this Agreement and the Agreement of Merger, and no gain or loss will be recognized to Christiana upon the distribution by Christiana of Du Pont Common Stock and cash to the preferred shareholders of Christiana in exchange for their Christiana Preferred Stock or upon the distribution by Christiana of Du Pont Common Stock to the common stockholders of Christiana in exchange for their Christiana Common Stock;

(b) No gain or loss will be recognized to Du Pont upon the issuance of its Common Stock pursuant to this Agreement and the Agreement of Merger;

(c) The basis to Du Pont of the assets acquired from Christiana pursuant to this Agreement and the Agreement of Merger will be the same as the basis of such assets to Christiana immediately before the Effective Date of the Merger; and

(d) The holding period to Du Pont of the assets acquired from Christiana pursuant to this Agreement and the Agreement of Merger will include the holding period of such assets to Christiana.

10.4 *Commission Order.* The Commission shall have issued a final order pursuant to the provisions of the Investment Company Act of 1940 satisfactory in form and substance to Du Pont and to Covington & Burling, exempting the Merger from the provisions of Section 17 of the Act.

10.5 *Disposition of Shares.* Those stockholders of Christiana who will be restricted by the Securities Act of 1933 with respect to disposition of shares of Du Pont Common Stock received as a result of the Merger shall have entered into agreements with Du Pont, in a form satisfactory to Du Pont, regarding obligations of the parties to such agreements in connection with any dispositions of such shares of Du Pont Common Stock by such stockholders.

10.6 *Opinions of Counsel.* (a) Du Pont shall have been furnished with an opinion, dated as of the date of closing, of Covington & Burling as to the matters specified in (ii), (iii), (iv) and (v) below and of Dechert Price & Rhoads as to each of the matters set forth below (each of whom, as to matters of Delaware law, may rely on the opinion of Morris, Nichols, Arsht & Tunnell) to the effect that:

(i) Christiana is a corporation duly organized, validly existing and in good standing under the laws

of the State of Delaware, and has corporate power to carry on its business as it is then being conducted;

(ii) the execution, delivery and performance of this Agreement and the Agreement of Merger by Christiana have been duly authorized and approved by all requisite action of the Board of Directors and stockholders of Christiana, this Agreement and the Agreement of Merger have been duly executed and delivered by Christiana and this Agreement constitutes and the Agreement of Merger when it becomes effective will constitute a valid and binding obligation of Christiana in accordance with their terms;

(iii) the shares of Du Pont Common Stock issuable pursuant to Article Fifth of the Agreement of Merger are not required to be registered under the Securities Act of 1933 or the Rules and Regulations of the Commission as in effect on the date of the opinion, or, if such registration is required, such registration has become effective;

(iv) all necessary orders and approvals of the Commission under the Investment Company Act of 1940 have been received; and

(v) no suit, action or other proceeding is to the best of the knowledge of such counsel pending or threatened before any court or administrative agency which, in such counsel's opinion, would result in a judgment or order preventing consummation of the Merger.

(b) Du Pont shall have been furnished with an opinion, dated as of the date of closing, of Richards, Layton & Finger, counsel to The News-Journal Company, to the effect that:

(i) The News-Journal Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, and has corporate power to carry on its business as it is then being conducted; and

(ii) all shares of The News-Journal Company capital stock outstanding as of the date of such opinion are validly issued, fully paid and non-assessable.

11. Termination of Warranties and Representations.

All statements contained in any certificate, instrument or document delivered by or on behalf of the parties pursuant to this Agreement shall be deemed representations and warranties by the respective parties hereunder. None of the representations, warranties, agreements and covenants hereunder shall survive the Effective Date except for the representation of Du Pont made pursuant to paragraph 4.9 of Article 4 hereof and the covenant of Du Pont made pursuant to paragraph 7.2 of Article 7 hereof.

12. Waiver.

Either party hereto may at its option waive in writing any and all covenants and conditions herein contained to which its obligations hereunder are subject.

13. Termination.

Anything herein to the contrary notwithstanding, this Agreement and the Agreement of Merger may be terminated and the Merger may be abandoned at any time prior to the date of closing:

(a) by mutual agreement evidenced by resolutions of the Boards of Directors of the parties hereto; or

(b) by Du Pont in the event that (i) the Agreement of Merger shall not be approved by its stockholders by the requisite vote, or (ii) any suit, action or other proceeding shall have been instituted or is threatened before any court or administrative agency which, in the opinion of Covington & Burling, would result in an order requiring the divestment of any assets acquired by Du Pont as a result of the Merger, other than stock of Wilmington Trust Company or The News-Journal Company; or

(c) by Christiana in the event the Agreement of Merger shall not be approved by its stockholders by the requisite vote.

14. Amendments.

This Agreement may be amended or modified only by a written instrument executed by Christiana and Du Pont acting by their respective officers thereunto duly authorized by their respective Boards of Directors. No such amendment shall be made to the Agreement of Merger after it shall have been adopted by the shareholders of Christiana or Du Pont.

15. Notices.

All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given if delivered or mailed, first class postage prepaid,

(a) if to Christiana, marked to the attention of Mr. Irénée du Pont, Jr., President, Christiana Securities Company, Du Pont Building, Wilmington, Delaware 19898, or

(b) if to Du Pont, marked to the attention of Mr. Charles B. McCoy, Chairman and President, E. I.

du Pont de Nemours and Company, Du Pont Building, Wilmington, Delaware 19898,

or to such other persons or such other address as shall be furnished in writing by either party to the other.

16. Counterparts.

This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

17. Governing Law.

This Agreement shall be construed and enforced in accordance with the laws of the State of Delaware.

IN WITNESS WHEREOF, the undersigned parties hereto have duly executed this Agreement on the date first above written.

(SEAL) CHRISTIANA SECURITIES COMPANY

Attest:

..... By .....
Secretary *President*

(SEAL) E. I. DU PONT DE NEMOURS AND COMPANY

Attest:

..... By .....
Secretary *Chairman of the Board and President*

EXHIBIT A

AGREEMENT OF MERGER

THIS AGREEMENT OF MERGER, dated as of the .... day of ....., 1972, is made pursuant to Section 251 of the General Corporation Law of the State of Delaware by and between CHRISTIANA SECURITIES COMPANY, a Delaware corporation (hereinafter sometimes called "Christiana"), and E. I. DU PONT DE NEMOURS AND COMPANY, a Delaware corporation (hereinafter sometimes called "Du Pont" or the "Surviving Corporation"). Christiana and Du Pont are referred to herein collectively as the "Constituent Corporations".

WITNESSETH:

The Constituent Corporations have agreed that Christiana shall be merged into Du Pont and that the terms and conditions of said Merger, the plan and mode of carrying the same into effect, the amendment of the Certificate of Incorporation of Du Pont as the Surviving Corporation, the manner of converting shares of Christiana into shares of Du Pont and cash the holders of shares of Christiana are to receive, the retirement of certain shares of Du Pont's capital stock, and other matters with respect to the Merger are and shall be as follows:

First. Upon the effective date of the Merger, as defined in Article Third hereof (the "Effective Date"), Christiana shall be merged into Du Pont which shall be the Surviving Corporation and which shall continue its corporate existence and remain a Delaware corporation governed by the laws of the State of Delaware.

Second. (a) The corporate name of the Surviving Corporation shall remain E. I. du Pont de Nemours and Company;

(b) The Certificate of Incorporation of Du Pont shall be amended as follows:

> The second and third paragraphs of Article FOURTH shall be deleted and in their place shall be inserted the following paragraph:
>
> > "The total number of shares of all classes of stock which the corporation shall have authority to issue shall be Sixty-nine Million (69,000,000), of which Four Million (4,000,000) shares shall be Preferred Stock without par value and Sixty-five Million (65,000,000) shares shall be Common Stock having a par value of Five Dollars ($5.00) each."

The Certificate of Incorporation of the Surviving Corporation shall not be amended in any other respect by reason of the Merger, and the Certificate of Incorporation of the Surviving Corporation as heretofore amended and as further amended hereby shall be the Certificate of Incorporation of the Surviving Corporation until any further amendment is made pursuant to the laws of the State of Delaware;

(c) The By-Laws of Du Pont shall be the By-Laws of the Surviving Corporation and shall continue in force and effect, until duly altered, amended or repealed; and

(d) The directors of Du Pont on the Effective Date shall constitute the Board of Directors of the Surviving Corporation and shall serve until the next annual meeting of stockholders of the Surviving Corporation, and until their successors are chosen and shall have qualified, as provided in the By-Laws of the Surviving Corporation.

Third. When this Agreement of Merger has been adopted by vote of the holders of a majority of the issued

and outstanding shares of Christiana and of Du Pont entitled to vote thereon, it shall, subject to conditions specified in an Agreement and Plan of Reorganization between the Constituent Corporations dated , 1972, be executed, acknowledged and submitted for filing in the manner prescribed by Section 251 of the General Corporation Law of the State of Delaware. This Agreement of Merger shall become effective at the close of business on the date it is so filed with the Secretary of State of Delaware. Such date is referred to herein as the Effective Date.

Fourth. Upon the Effective Date, the separate existence of Christiana shall cease and the Surviving Corporation shall thereupon and thereafter possess all of the rights, privileges, powers and franchises as well of a public as of a private nature, and be subject to all the restrictions, disabilities and duties of each of such corporations so merged; and all and singular, the rights, privileges, powers and franchises of each of said corporations, and all property, real, personal and mixed, and all debts due to each of the Constituent Corporations on whatever account, as well for stock subscriptions as all other things in action or belonging to each of the Constitutent Corporations shall be vested in the Surviving Corporation; and all property, rights, privileges, powers and franchises, and all and every other interest shall be thereafter as effectually the property of the Surviving Corporation as they were of the respective Constituent Corporations, and the title to any real estate, vested by deed or otherwise, under the laws of the State of Delaware, in either of the Constituent Corporations shall not revert or be in any way impaired by virtue of such Merger; but all rights of creditors and all liens upon any property of the Constituent Corporations shall be preserved unimpaired, and all debts, liabilities and duties of

the Constituent Corporations shall thenceforth attach to the Surviving Corporation and may be enforced against it to the same extent as if the said debts, liabilities and duties had been incurred or contracted by it.

If at any time the Surviving Corporation shall consider or be advised that any further assignments or assurances in law or other things are necessary or desirable to vest, or to perfect or to confirm, of record or otherwise, in the Surviving Corporation, the title to any property of Christiana acquired or to be acquired as a result of the Merger provided for herein, both the proper officers and directors of Christiana and the proper officers and directors of the Surviving Corporation are fully authorized to execute and deliver any and all proper deeds, assignments and assurances in law and to do all things necessary and proper in the name of Christiana or otherwise so as to vest, perfect or confirm title to such property in the Surviving Corporation, and otherwise carry out the purposes of this Agreement of Merger.

Fifth. The manner and basis of converting the issued and outstanding shares of each of the Constituent Corporations and of retiring certain stock of the Surviving Corporation shall be as follows:

(a) Each share of Seven Per Cent. Cumulative Non-voting Preferred Stock of Christiana ($100 par value) issued and outstanding on the Effective Date shall be converted into and become (i) such number of shares, or fraction thereof, of fully paid and non-assessable Common Stock ($5.00 par value) of Du Pont, theretofore authorized and unissued, as is determined by dividing $120 by the average of the closing prices of Du Pont Common Stock on the New York Stock Exchange for the ten trading days immediately preceding the Effective Date plus (ii) an amount in

cash equal to the dividend accrued and unpaid on said Preferred Stock up to and including the Effective Date. The Common Stock capital account of Du Pont shall thereupon be increased by the aggregate par value of said shares issued in the conversion.

(b) Each share of Christiana Common Stock ($1.25 par value) issued and outstanding on the Effective Date shall be converted into 1.123 shares of Common Stock ($5.00 par value) of Du Pont, theretofore authorized and unissued, (the "Effective Date Distribution") and, in addition, a pro rata portion of any shares of Du Pont Common Stock distributed, on or prior to the fifth anniversary of the Effective Date, in any Contingent Share Distribution. The Contingent Share Distribution shall be the number of shares of Du Pont Common Stock determined by dividing the Final Recovery (as defined below) in *Christiana Securities Co. v. United States,* C. A. No. 3831 in the United States District Court for the District of Delaware (the "Tax Claim") by the average of the closing prices of Du Pont Common Stock on the New York Stock Exchange for the ten trading days immediately preceding the date on which such Final Recovery is made. No certificate or scrip with respect to the Contingent Share Distribution shall be issued, and a stockholder's interest therein shall not be assignable except by will or by operation of law. Du Pont's obligation to make such Contingent Share Distribution shall be discharged, and distribution thereof shall be deemed to be made, by conveying, within ten days after the date on which such Final Recovery is made, the shares of Du Pont Common Stock to an agent for the holders of record of Christiana Common Stock on the Effective Date designated by the Tax Claim Com-

mittee referred to below for distribution in accordance with the terms of this Agreement of Merger. In the event the Final Recovery shall be received prior to the Effective Date, the Effective Date Distribution shall be increased by a pro rata share of the number of shares of Du Pont Common Stock obtained by dividing the Final Recovery by $163.875 and there shall be no Contingent Share Distribution. The Common Stock capital account of Du Pont shall be increased by the aggregate par value of shares issued in the conversion constituting the Effective Date Distribution.

(I) Final Recovery shall mean, with respect to the Tax Claim, any amount recovered by settlement as well as by entry of a judgment which shall have become final, including amounts attributable to interest, with the following adjustments:

(i) less the amount, if any, by which the expenses paid or incurred with respect to the Tax Claim subsequent to July 17, 1972 exceed $1,000,000;

(ii) less the applicable income taxes payable by Du Pont or Christiana with respect to the Final Recovery, the rate and amount of such income taxes to be determined by Du Pont;

(iii) less the cost of making the Contingent Share Distribution;

(iv) plus the amount (whether or not any monetary judgment shall be entered), if any, by which the expenses paid or incurred with respect to the Tax Claim subsequent to July 17, 1972 are less than $1,000,000;

(v) plus the sum of the amounts determined at the end of each calendar quarter ending after July 17, 1972 through the date of Final Recovery by multiplying $1,000,000 less the total amount of expenses paid since July 17, 1972 with respect to the Tax Claim by ¼ of the then prevailing prime commercial lending rate of interest of Morgan Guaranty Trust Company of New York;

(vi) plus the amount of any reduction in income taxes of Du Pont and Christiana resulting from expenses with respect to the Tax Claim paid or incurred after July 17, 1972, the rate and amount of such income taxes to be determined by Du Pont or Christiana as the case may be; provided, however, that no adjustment shall be made under this clause (vi) for reduction in income taxes of Du Pont unless the Internal Revenue Service shall have issued a ruling that such expenses are deductible for Federal income tax purposes; and

(vii) plus, if the Contingent Share Distribution is not distributed within one year after the Effective Date, an amount equal to the Final Recovery adjusted as set forth in clauses (i) through (vi) above multiplied by a factor determined by the following formula:

$$\text{Factor} = \frac{.04rt}{1 + .04t - .04rt}$$

where r is the rate of income taxes determined by Du Pont for purpose of clause (ii)

above and *t* is the years and decimal fraction of a year from the Effective Date to the date of Final Recovery; provided, however, that no adjustment shall be made under this clause (vii) unless the Internal Revenue Service shall have issued a ruling that such amounts determined to be the payment of interest under (II) below are deductible by Du Pont for Federal income tax purposes.

The Final Recovery shall be deemed to have occurred when payment is received by Du Pont or Christiana from the United States of America in full settlement of the Tax Claim or in full discharge of any final judgment, or if a judgment denying monetary relief is entered, the date on which such judgment becomes final. In the event that there shall have been no such Final Recovery on or before the 150th day preceding the fifth anniversary of the Effective Date, Du Pont agrees to negotiate in good faith with the Tax Claim Committee to determine the amount which represents the fair value of the Tax Claim at such time. In the event that Du Pont and the Tax Claim Committee are unable to agree on an amount before the 120th day preceding the fifth anniversary of the Effective Date, they shall, within three days after such date, each deliver a written notice to the other designating one appraiser. The two appraisers so designated shall select a third appraiser. In the event that the designated appraisers are unable, or fail, within seven days after their appointment, to agree upon the third appraiser, they or either of them shall immediately request the American Arbitration Association to appoint a third appraiser in accordance with its rules as to appointment of a neutral arbitrator. The third appraiser so selected or appointed shall act as chairman. The appraisers shall meet at the call of the chairman and take such proceedings as they deem necessary to determine the then fair value of the Tax Claim. Within ninety days after the appointment of the third appraiser, but no later than the tenth business day preceding the fifth anniversary of the Effective Date, the appraisers shall deliver to Du Pont and the Tax Claim Committee in writing a statement specifying the then fair value of the Tax Claim. The decision of a majority of such appraisers shall be final and conclusive unless a majority are unable to agree, in which event the determination of the chairman shall be final and conclusive. The amount agreed upon between Du Pont and the Tax Claim Committee or, in the absence of such agreement, the amount determined by the appraisers, representing the then fair value of the Tax Claim shall be supported by a statement specifying the portions thereof deemed to be (1) recovery of tax paid, (2) recovery of interest paid and (3) interest on both of these items, and shall be treated for all purposes hereunder as though it were an amount recovered by settlement of the Tax Claim on the date of such agreement or of such determination by appraisal.

(II) If the Contingent Share Distribution is not distributed within one year after the Effective Date, a portion of any Contingent Share Distribu-

tion shall be deemed the payment of interest on a deferred payment (the "Interest Shares") and the balance shall be deemed to be the payment of principal (the "Principal Shares"). The portion deemed payment of interest shall be determined by multiplying the Final Recovery by a factor determined by the following formula:

$$\text{Factor} = 1 - \frac{1}{1 + .04t}$$

where *t* is the years and decimal fraction of a year from the Effective Date to the date of distribution of the Contingent Share Distribution.

(III) If the Contingent Share Distribution occurs within one year after the Effective Date, the maximum number of shares of Du Pont Common Stock which may be issued in the Contingent Share Distribution is 300,000 shares. If the Contingent Share Distribution occurs more than one year after the Effective Date, the maximum number of Principal Shares which may be issued as part of the Contingent Share Distribution is 300,000 shares. The maximum number of shares of Du Pont Common Stock referred to above shall be appropriately adjusted in the event of any division, combination or modification of Du Pont Common Stock, whether through recapitalization, stock split, stock dividend or otherwise. In the event that the maximum number of Principal Shares applies as the result of computing the number of Principal Shares under subparagraph (II), subparagraph (II) shall not apply to determine the number of Interest Shares to be

distributed and there shall be distributed as interest the lesser of (a) a number of Interest Shares equal to the number of Principal Shares multiplied by a factor equal to six percent per annum simple interest from the Effective Date to the date of distribution of the Contingent Share Distribution, or (b) the excess of the Contingent Share Distribution (determined without regard to this subparagraph) over the maximum number of Principal Shares.

(IV) All matters relating to prosecution and settlement of the Tax Claim and the Contingent Share Distribution shall be determined by a special Tax Claim Committee consisting of the members of the Board of Directors of Christiana as constituted on the Effective Date. If any vacancies shall occur among the members of the Tax Claim Committee, those remaining in office shall appoint replacements. The Tax Claim Committee shall have authority to the same extent as the board of directors of a corporation organized under the General Corporation Law of the State of Delaware.

(c) Except as provided in paragraph (e) of this Article Fifth, each share of Common Stock of Du Pont ($5.00 par value) issued and outstanding or held in treasury by Du Pont on the Effective Date shall remain unchanged and unaffected by the Merger.

(d) Except as provided in paragraph (e) of this Article Fifth, each share of any series of Preferred Stock of Du Pont issued and outstanding or held in treasury by Du Pont on the Effective Date shall remain unchanged and unaffected by the Merger.

(e) Each share of Common Stock ($5.00 par value) and $4.50 Series Cumulative Preferred Stock of Du Pont held by Christiana on the Effective Date and received by Du Pont in the Merger shall be forthwith retired and restored to the status of authorized and unissued shares, and the capital of Du Pont shall be automatically reduced by the aggregate amount of capital attributable on the Effective Date to—

1) the shares of Preferred Stock then retired, at the stated value thereof, and

2) the shares of Common Stock then retired, at par value thereof.

A Certificate of Reduction of Capital shall be filed pursuant to Section 244 of the General Corporation Law of the State of Delaware.

(f) Subject to the limitations of Article Sixth and to the provisions herein with respect to a Contingent Share Distribution, the conversion of the shares of Christiana capital stock pursuant to this Agreement of Merger shall be complete and effective on the Effective Date without regard to the date or dates upon which certificates representing shares of Christiana shall be surrendered by the holders thereof for certificates representing Du Pont Common Stock as hereinafter provided. Until so surrendered and subject to the limitations of Article Sixth, certificates for shares of Christiana Preferred Stock shall be deemed for all purposes from and after the Effective Date to evidence the ownership of the number of full shares of Du Pont Common Stock into which such shares of Christiana Preferred Stock shall have been converted as of the Effective Date as herein provided and certificates for

shares of Christiana Common Stock shall be deemed for all purposes from and after the Effective Date to evidence the ownership of the number of full shares of Du Pont Common Stock into which such shares of Christiana Common Stock shall have been converted by reason of the Effective Date Distribution. Subject to the limitations of Article Sixth, (i) upon surrender by any holder of certificates representing shares of Preferred Stock of Christiana, Du Pont shall issue certificates representing the full shares of Du Pont Common Stock to which such stockholder shall be entitled by reason of the conversion as of the Effective Date and the cash payment with respect thereto and (ii) upon surrender by any holder of certificates representing shares of Common Stock of Christiana, Du Pont shall issue certificates representing the full shares of Du Pont Common Stock to which such stockholder shall be entitled by reason of the Effective Date Distribution.

(g) No fractional shares of Du Pont Common Stock or certificate or scrip representing the same shall be issued in connection with the Merger. In lieu thereof each holder of Du Pont Common Stock having a fractional interest arising upon the Effective Date will be afforded the opportunity through the exchange agent for such stock, on or before the 40th day following the Effective Date, either to consolidate his fractional interest into one full share of such stock by purchasing and paying for the additional fractional interest required for such consolidation, or to sell his fractional interest and obtain the proceeds thereof. Any fractional interest with respect to which instructions shall not have been received by the exchange agent within the prescribed period shall be sold. Buy-

ing and selling orders may be offset, but they will be exercised at prices determined by market transactions. The proceeds of any sale of a fractional interest shall be paid in cash by the exchange agent to the stockholder entitled to the fractional interest sold, except that the exchange agent shall not pay such proceeds to any such stockholder who shall not have surrendered his certificates for exchange pursuant to Article Sixth, and shall retain such proceeds until such time as such certificates have been so surrendered. The same procedure shall be utilized for the treatment of fractional interests arising out of any Contingent Share Distribution. The exchange agent shall be the agent of the stockholders entitled to such fractional share interests and shall act on behalf of such stockholders pursuant to instructions of Du Pont or the Tax Claim Committee, as the case may be.

(h) Notwithstanding the provisions of paragraph (a) of this Article Fifth, no share of Christiana Preferred Stock, the holder of which has, within the time periods specified in Section 262 of the General Corporation Law of the State of Delaware, objected to the Merger and made demand upon the Surviving Corporation for payment of the value of such share shall be deemed converted hereunder; provided, however, that any such share, the holder of which shall, with the approval of the Surviving Corporation, withdraw his objection to the Merger, shall be deemed converted hereunder as of the Effective Date.

Sixth. After the Effective Date, each holder of an outstanding certificate or certificates theretofore representing capital stock of Christiana shall surrender the same to an agent or agents designated by Du Pont (accompanied

by such instruments of transfer as Du Pont may reasonably require), and each holder shall upon such surrender receive in exchange therefor a certificate or certificates representing the shares of Du Pont Common Stock to which such stockholder is entitled on the Effective Date (excluding any shares to be distributed in any Contingent Share Distribution) by reason of the Merger together with any additional share which may have been purchased, or the proceeds of any fractional share sold pursuant to Article Fifth hereof, and, in the case of Christiana Preferred Stock, the cash payment. Until the surrender of a certificate or certificates evidencing the Christiana shares, any dividend or other distributions in respect of such shares of Du Pont Common Stock shall be accumulated and not paid or delivered, but at the time of such surrender, any such dividends or other distributions shall be paid or delivered in full but without interest thereon.

Seventh. Anything herein to the contrary notwithstanding, this Agreement of Merger may be terminated and the Merger may be abandoned at any time prior to the Effective Date:

(a) by mutual agreement evidenced by resolutions of the Boards of Directors of the parties hereto; and

(b) by either party hereto if any condition precedent to its obligation under an Agreement and Plan of Reorganization between the parties dated ...., 1972, is not met.

IN WITNESS WHEREOF, this Agreement has been executed by each of the Constituent Corporations, by its Chairman of the Board or its President or a Senior Vice President or a Vice President and attested by the Secretary

or an Assistant Secretary of each of the Constituent Corporations under its corporate seal, all on the date first above written.

[CORPORATE SEAL] CHRISTIANA SECURITIES COMPANY

Attest:

..... By .....
Secretary [*Title*]

[CORPORATE SEAL] E. I. DU PONT DE NEMOURS AND COMPANY

Attest:

..... By .....
Secretary [*Title*]

Exhibit C, pp. 15-19

CHRISTIANA SECURITIES COMPANY

STATEMENT OF INCOME

(Dollars in thousands, except per share)

	Six Months Ended June 30		*Years Ended December 31*				
	1972	*1971 (Unaudited) (Note 4)*	*1971*	*1970*	*1969*	*1968*	*1967*
INCOME:							
Cash dividends:							
E. I. du Pont de Nemours and Company:							
Common	$33,542.8	$33,542.8	$67,085.6	$67,085.6	$70,439.9	$73,794.2	$67,085.6
Preferred	36.6	36.6	73.2	73.2	73.2	73.2	73.2
Wilmington Trust Company, common	69.2	69.2	183.4	183.4	183.4	166.1	155.7
The News-Journal Company, common			238.7	238.7	238.7	238.7	238.7
Hercules Incorporated, common							150.0
Interest on commercial paper and certificates of deposit	91.2	79.6	216.8	274.0	538.4	444.9	355.9
Total income	33,739.8	33,728.2	67,797.7	67,854.9	71,473.6	74,717.1	68,059.1
EXPENSES:							
Relating to capital stock (transfer, dividend disbursement, etc.)	20.0	19.6	30.1	31.6	32.4	32.4	33.2
Salaries and employees' benefit plan expenses (less $33.9 life insurance proceeds in 1971)	25.8	(10.7)	10.8	47.4	45.9	43.5	41.0
Legal, auditing, and other fees	49.3	135.4	202.2	87.1	76.4	62.0	76.8
Franchise and payroll taxes	21.4	22.7	44.0	42.8	42.5	38.3	39.0
Rent	2.1	1.9	3.8	3.8	3.4	3.6	4.1
Miscellaneous	6.8	5.5	16.2	6.1	8.5	9.9	7.2
Total expenses	125.4	174.4	307.1	218.8	209.1	189.7	201.3
INCOME BEFORE FEDERAL INCOME TAX	33,614.4	33,553.8	67,490.6	67,636.1	71,264.5	74,527.4	67,857.8
Less—Provision for Federal Income Tax (Notes 1, 2 and 3)	2,383.4	2,400.0	4,850.0	5,003.5	5,775.2	5,985.9	4,839.9
NET INCOME FOR THE PERIOD	$31,231.0	$31,153.8	$62,640.6	$62,632.6	$65,489.3	$68,541.5	$63,017.9
EARNINGS PER SHARE OF COMMON STOCK (after preferred dividend)—based on average number of shares outstanding	$ 2.64	$ 2.63	$ 5.28	$ 5.28	$ 5.53	$ 5.79	$ 5.30
CASH DIVIDENDS PER SHARE:							
Common Stock	$ 2.50	$ 2.50	$ 5.25	$ 5.25	$ 5.50	$ 5.25	$ 5.25
Preferred Stock	$ 3.50	$ 3.50	$ 7.00	$ 7.00	$ 7.00	$ 7.00	$ 7.00
BOOK VALUE PER SHARE OF COMMON STOCK (assuming $120 a share call price of preferred)	$ 7.05						
ACCUMULATED NET REALIZED GAIN ON INVESTMENTS—See Note 5							
UNREALIZED APPRECIATION ON INVESTMENTS —See Note 3							

See accompanying notes to financial statements.

CHRISTIANA SECURITIES COMPANY

BALANCE SHEET
(Dollars in thousands)

ASSETS

	June 30, 1972	*December 31, 1971*
Cash in Banks–Demand Deposits	$ 1,077.8	$ 860.4
Certificate of Deposit (at cost and accrued interest, maturing in 1972)	5,210.5	
Commercial Paper (at cost and accrued interest, maturing in 1972)		3,911.0
Investments (Note 6):		
E. I. du Pont de Nemours and Company:		
Common–13,417,120 shares	74,621.9	74,621.9
Preferred, $4.50 cumulative–16,256 shares	1,298.1	1,298.1
Wilmington Trust Company, common–69,216 shares	903.6	903.6
The News-Journal Company (wholly-owned), common–7,460 shares	846.1	846.1
Total investments	77,669.7	77,669.7
Deferred Charge–Prior years' Federal income taxes and interest paid (Note 2)	11,723.0	11,723.0
Total	$95,681.0	$94,164.1

LIABILITIES

Accrued Expenses	$ 120.6	$ 186.6
Dividend on Preferred Stock–Payable July 1, 1972 and January 3, 1972, respectively	186.4	186.4
Accrued Federal Income Tax (Notes 1, 2 and 3):		
Estimated tax payable	2,400.0	4,850.0
Less amounts paid on declaration filed	(2,400.0)	(4,850.0)
Capital Stock and Surplus:		
Capital Stock:		
7% cumulative, nonvoting preferred–authorized and outstanding, 106,500 shares of $100 par value each (callable at $120 a share)	10,650.0	10,650.0
Common–authorized, 13,600,000 shares of $1.25 par value each; outstanding, 11,710,103 shares	14,637.6	14,637.6
Surplus:		
Undistributed net income	61,868.5	60,285.6
Accumulated net realized gain on investments (Note 5)	8,217.9	8,217.9
Total capital stock and surplus	95,374.0	93,791.1
Total	$95,681.0	$94,164.1

See accompanying notes to financial statements.

CHRISTIANA SECURITIES COMPANY

STATEMENT OF UNDISTRIBUTED NET INCOME
(Dollars in thousands)

	Six Months Ended June 30, 1972	*Years Ended December 31*		
		1971	*1970*	*1969*
Undistributed Net Income (beginning of period)	$60,285.6	$ 59,868.5	$ 59,459.4	$ 59,121.1
Add Net Income for the Period	31,231.0	62,640.6	62,632.6	65,489.3
Total	91,516.6	122,509.1	122,092.0	124,610.4
Deduct Cash Dividends:				
Preferred Stock	372.8	745.5	745.5	745.5
Common Stock	29,275.3	61,478.0	61,478.0	64,405.5
Total	29,648.1	62,223.5	62,223.5	65,151.0
Undistributed Net Income (end of period)	$61,868.5	$ 60,285.6	$ 59,868.5	$ 59,459.4

STATEMENT OF CHANGES IN FINANCIAL POSITION
(Dollars in thousands)

	Six Months Ended June 30, 1972	*Years Ended December 31*		
		1971	*1970*	*1969*
CASH BALANCE (beginning of period)	$ 860.4	$ 1,757.1	$ 1,534.3	$ 1,173.6
SOURCE OF FUNDS:				
Net income for the period	31,231.0	62,640.6	62,632.6	65,489.3
Add (deduct) items not requiring funds during the period:				
(Decrease) increase in accrued expenses	(66.0)	91.6	7.0	16.0
(Increase) decrease in accrued Interest income	.5	(5.4)	6.7	29.4
Net funds provided from operations	31,165.5	62,726.8	62,646.3	65,534.7
Commercial paper, etc. matured	16,800.0	17,600.0	39,100.0	115,400.0
Total	47,965.5	80,326.8	101,746.3	180,934.7
USE OF FUNDS:				
Payment of dividends	29,648.1	62,223.5	62,223.5	65,151.0
Purchase of commercial paper, etc.	18,100.0	19,000.0	39,300.0	103,700.0
Increase in deferred charge				11,723.0
Total	47,748.1	81,223.5	101,523.5	180,574.0
CASH BALANCE (end of period)	$ 1,077.8	$ 860.4	$ 1,757.1	$ 1,534.3

See accompanying notes to financial statements.

CHRISTIANA SECURITIES COMPANY

NOTES TO FINANCIAL STATEMENTS

(Dollars in thousands, except per share)

1. TAX STATUS

Christiana is not a "regulated investment company" as defined in Section 851 of the Internal Revenue Code, and is subject to Federal income tax at regular corporate rates. Under Delaware law, Christiana is not subject to state income tax.

2. DEFERRED CHARGE

Christiana filed suit in the United States District Court in Wilmington, Delaware, on December 23, 1969 for the refund of approximately $21 million in Federal income taxes and interest, of which taxes of $9,589.2 and related interest of $2,479.2 were paid as additional assessments in 1969 in connection with asserted deficiencies and which amounts, after tax adjustments, were charged to deferred accounts established in connection with the divestiture proceedings. This suit principally involves a controversy as to the fair market value for Federal income tax purposes of the very large blocks of General Motors common stock received by Christiana from Du Pont in 1962, 1964, and 1965. These blocks of stock were a part of the General Motors Company divestiture distribution and were subject to specific divestiture requirements under the 1962 antitrust decree in *U. S. vs. du Pont et al.* Also involved is a controversy, of lesser magnitude, as to the deductibility for Federal income tax purposes of certain expenses incurred in connection with the divestiture of General Motors stock pursuant to the decree.

In addition to the claim for refund of taxes and interest referred to above, Christiana is also claiming interest on whatever amount may be refunded.

3. UNREALIZED APPRECIATION ON INVESTMENTS

The following amounts for unrealized appreciation on investments are computed by subtracting the carrying values from the amounts obtained by multiplying the number of shares of the various investments by the respective quoted market prices at the indicated dates (except the appraised value of $24,260.0 for the investment in The News-Journal Company applied retroactively for all applicable periods—see Note 6) and without regard to any effect of such unrealized appreciation on future Federal income tax liability. The amounts so computed are not represented to be realizable values for blocks of shares of the magnitude held.

	June 30, 1972	*December 31, 1971*	*1970*	*1969*
Balance beginning of period	$1,895,819.5	$1,740,017.5	$1,359,258.0	$2,165,213.1
Balance end of period	2,150,851.6	1,895,819.5	1,740,017.5	1,359,258.0
Increase (decrease) during the period	$ 255,032.1	$ 155,802.0	$ 380,759.5	$ (805,955.1)

4. UNAUDITED FINANCIAL STATEMENT

In the opinion of Christiana, all adjustments, consisting only of normal recurring adjustments, necessary for a fair statement of the results of operations for the unaudited six month period ended June 30, 1971 have been made.

5. ACCUMULATED NET REALIZED GAIN ON INVESTMENTS AND CAPITAL SURPLUS

There has been no change in accumulated net realized gain on investments during the six months ended June 30, 1972 and the three years ended December 31, 1971. The balance at June 30, 1972 represents the remainder after

charges for distributions to stockholders prior to 1969 aggregating $195.2.

Distributions to stockholders made from capital surplus, all prior to 1969, have aggregated $25,498.2, and there is no balance of capital surplus at June 30, 1972.

6. Investments

The carrying value of each of the investments in capital stocks is the same as the basis for Federal income tax purposes.

The quoted market price per share of investments at June 30, 1972 and December 31, 1971 and the amounts obtained by multiplying such prices by the number of shares on those dates were as follows:

	June 30, 1972		*December 31, 1971*	
	Quoted Market Price Per Share	*Shares Owned Times Price Per Share*	*Quoted Market Price Per Share*	*Shares Owned Times Price Per Share*
E. I. du Pont de Nemours and Company:				
Common	$164.00	$2,200,407.7	$145.00	$1,945,482.4
Preferred	71.00	1,154.2	69.75	1,133.9
Wilmington Trust Company, common	39.00	2,699.4	37.75	2,612.9
The News-Journal Company, common	(a)	—	(a)	—

(a) There is no market quotation available. The News-Journal Company's accounts at June 30, 1972 and December 31, 1971 show net assets of that company of approximately $6,800.0. A recent appraisal of the estimated fair market value of Christiana's investment, by an expert in the newspaper field, was $24,260.0 on the basis of a cash sale of common stock.

The amounts computed as shown above are not represented to be either the aggregate quoted market or realizable values of the respective investments.

The financial statements of The News-Journal Company have not been consolidated with those of Christiana for the reason that the former is not an investment company. Individual statements for this company are not included herein, as it is not "significant" within the meaning of the term "significant subsidiary" as defined in the General Rules and Regulations under the Investment Company Act of 1940.

7. Net Asset Coverage and Net Asset Value

The following sets forth the net asset coverage per share of preferred stock and the net asset value per share of common stock outstanding at June 30, 1972 and December 31, 1971, computed as to the valuation of investment securities on the basis of multiplying the number of shares of the various investments by the respective quoted market prices per share at those dates (except for an aggregate of $24,260.0 for the investment in The News-Journal Company applied retroactively at both dates—see Note 6) and including such unrealized appreciation of investments without regard to any effect thereof on future Federal income tax liability:

	June 30, 1972	*December 31, 1971*
Net asset coverage per share of preferred stock, 106,500 shares outstanding	$21,091.32	$18,681.79
Net asset value per share of common stock, 11,710,103 shares outstanding:		
On basis of preferred stock having a liquidation value of $100 a share	$ 190.91	$ 169.00
On basis of preferred stock having a redemption value of $120 a share	$ 190.73	$ 168.81

8. Supplementary Profit and Loss Information

Supplementary profit and loss information is not presented separately as it is included in the accompanying financial statements and/or notes thereto.

Exhibit E

Data Concerning Directors

The Tabulation below shows remuneration for the year 1971 to directors of Du Pont, including the three highest-paid officers, who received more than $30,000 from Du Pont and its subsidiaries and to all directors and officers as a group (see Notes A and E). Payments for "C" Bonus "dividend units" are not included but are shown in Note A.

The Tabulation also shows shares of common stock of Du Pont and Christiana owned beneficially, directly or indirectly, as of December 31, 1971, by each of the directors of Du Pont and Christiana.

Directors of Du Pont

Directors	Remuneration for Year 1971 (See Notes A and E). Data do Not Include Any "C" Bonus "Dividend Unit" Payments Shown in Note A			Common Shares Owned Beneficially December 31, 1971 (See Note B)	
	Salary and Director's Fees	Bonus With Respect to Year 1971	Aggregate	Du Pont	Christiana
Walter J. Beadle	–	–	–	5,442	–
Walter S. Carpenter, Jr. (C)	–	–	–	16,040	50,000
W. Sam Carpenter, III (D)	$ 19,600	–	$ 19,600	6,306	18,113
Lammot du P. Copeland (C) (D)	32,890	–	32,890	195,737	75,198
Joseph A. Dallas	127,743	$ 69,000	196,743	1,018	–
David H. Dawson	126,450	69,000	195,450	2,411	–
Emile F. du Pont (D)	31,550	–	31,550	1,083	16,500
Irénée du Pont, Jr. (C) (D)	124,600	69,000	193,600	7,779	144,901
George P. Edmonds (C) (D)	–	–	–	4,300	3,500
Edwin A. Gee	124,913	69,000	193,913	519	–
Wallace E. Gordon	124,700	69,000	193,700	1,189	–
Crawford H. Greenewalt (C) (D)	61,000	–	61,000	11,079	37,713
Caryl P. Haskins	–	–	–	250	–
Robert L. Hershey	24,281	–	24,281	700	–
George E. Holbrook	31,250	–	31,250	1,635	–
Howard W. Johnson	–	–	–	100	–
Edward R. Kane	138,750	72,000	210,750	833	–
Wm. Winder Laird (D)	–	–	–	1,314	11,795
Samuel Lenher	1,000	–	1,000	150	4,299
Charles B. McCoy	192,600	80,000	272,600	3,481	40
Bernard Peyton	–	–	–	150,311	500
R. Russell Pippin	13,019	–	13,019	1,279	–
Robert L. Richards	28,650	–	28,650	1,206	240
Irving S. Shapiro	124,913	69,000	193,913	530	–
Hugh R. Sharp, Jr. (D)	31,450	–	31,450	1,854	244,108
Lester S. Sinness	127,664	69,000	196,664	1,078	–
29 Directors and officers of Du Pont as a group	$1,744,753	$768,700	$2,513,453	–	–

Directors of Christiana Who Are Not Directors of Du Pont

Names	Shares of Stock Owned Beneficially Directly or Indirectly, December 31, 1971, in Christiana and Du Pont (See Note B)			
	Christiana		Du Pont	
	Common	7% Cumulative Preferred	Common	Preferred $4.50
Robert R. M. Carpenter, Jr. (B) (F)	1,927	–	–	–
Ellason Downs (B) (F)	–	–	–	–
A. Felix du Pont, Jr. (B)(F)	137,554	–	16,466	–
Edward B. du Pont (B) (F) (G)	100,013	–	100	–
S. Hallock du Pont (B) (F)	119,150	–	12,932	–
Bayard Sharp (B) (F)	268,585	–	1,575	–

Notes to Tabulation

(Much of the information contained in the Tabulation and its notes was obtained from the directors.)

(A) Du Pont has three Bonus Plans, "A", "B" and "C" whose purposes are (a) to provide greater incentive for employees continually to exert their best efforts on behalf of the Company by rewarding them for services rendered with compensation that varies with the success of the business; (b) to attract to and retain in the employ of the Company persons of outstanding competence; and (c) to further the identity of interests of such employees with those of the Company's stockholders generally. Under Plan "A" awards may be granted for conspicuous service of any nature regardless of the amount of the Company's earnings. Under Plan "B", awards may be granted to employees, including those who are officers or directors of the Company, and members of standing committees of the Board of Directors, who have contributed most in a general way to the Company's success by their ability, efficiency and loyalty. Under Plan "C", awards may be granted to employees in important managerial or other responsible positions who concurrently are, or otherwise would be, recommended for awards under Plan "B". The maximum amount which can be made available for Plan "B" awards and the extent to which substitute awards can be made under Plan "C" are dependent upon earnings of the Company, as defined in the Plans.

Awards under Plan "A" totaling $609,185 were granted in May 1971 to 159 employees, none of whom were directors or officers, and consisted of $221,297 in cash and 2,689 shares of Du Pont common stock acquired by the Company and awarded at $144.25 a share.

Stock to be delivered in payment of awards is registered in the names of beneficiaries at the time of delivery. With respect to awarded but undelivered stock, on dividend payment dates the Company will pay to bonus beneficiaries an amount equal to the value of the diviends that would have been paid to them on such stock had it been delivered.

Awards for the year 1971 under Plan "B" totaling $35,120,000 have been granted in 1972 to 13 employees who were directors or officers during 1971 and to 11,424 other employees in the respective amounts of $768,700 and $34,351,300. Of the total amount, $18,094,217 was awarded in cash and the balance in 114,267 shares of new common stock of the Company to be issued directly to the beneficiaries at the award value of $149.00 per share. This value was fixed by the Board of Directors on January 17, 1972, and corresponds closely to the price on the preceding market day. The amount of bonus shown for 29 directors and officers of Du Pont as a group includes the award value of 142 shares of new common stock awarded under Plan "B".

Awards under Plan "B" with respect to the year 1971 are deliverable in four equal annual installments. Common stock to be delivered in payment of awards is issued or registered in the names of beneficiaries at the time of delivery. With respect to awarded but undelivered stock, on dividend payment dates the Company will pay to bonus beneficiaries an amount equal to the value of the dividends that would have been paid to them on such stock had it been delivered. No part or amount of bonus delivered to directors and officers during 1971 representing bonus awards with respect to prior years is included in the figures shown for the year 1971.

Awards under Plan "C" for the year 1971 were granted on February 21, 1972, in substitution for awards which otherwise would have been made under Plan "B", to 10 employees who were directors or officers during 1971 and to 39 other employees. The awards consisted of—

(a) 6,015 "dividend units"

(b) 15,030 "dividend units" accompanied by stock options to purchase 20,040 shares of the Company's common stock at $161.00 per share (market price on date of option grant). Each option becomes exercisable for 50% of the number of shares after January 1, 1973, with one half of the balance of the option becoming exercisable after January 1, 1974, and the other half after January 1, 1975. The options have a five-year maximum life and other terms and conditions conforming with the provisions of the Internal Revenue Code.

Each "dividend unit" entitles the holder to receive, for a limited term, cash payments from the Company equal to the interim and year-end dividends (other than stock dividends) paid on one share of common stock of the Company.

"Dividend units" granted for 1971 are forfeitable under certain circumstances throughout the beneficiary's active employment and for one year after his retirement; they cannot be transferred or assigned during the beneficiary's lifetime. "Dividend units" awarded in conjunction with a stock option terminate proportionately as such option is exercised. Except in the case of forfeiture, "dividend units" not terminated as a result of the exercise of a stock option, and "dividend units" not accompanied by a stock option, remain in effect until the death of the beneficiary or the 85th anniversary of his birth, whichever is later.

Plan "C" awards granted for the year 1971, and other pertinent data with respect to options and "dividend units" outstanding and payments thereunder, to those directors (including three highest-paid officers) who received more than $30,000 from Du Pont and its subsidiaries for 1971, and to directors and officers as a group, are shown below:

	Plan "C" awards granted February 21, 1972 for the year 1971				*Shares under option at December 31, 1971 (2)*	
Name	*Number of "dividend units" awarded*	*Number of shares for which options were granted at $161.00 per share*	*Number of "dividend units" in effect at December 31, 1971*	*Amounts received in 1971 under "dividend units" (1)*	*Number of shares*	*Average per share option price*
W. S. Carpenter, III ..	–	–	7,194	$ 35,970	–	–
L. du P. Copeland ..	–	–	17,121	85,605	–	–
J. A. Dallas	954	1,272	5,712	28,560	7,236	$133.72
D. H. Dawson	954	–	16,237	81,185	8,196	138.63
E. F. du Pont	–	–	4,550	22,750	–	–
I. du Pont, Jr.	954	–	5,607	28,035	6,088	132.53
E. A. Gee	954	1,272	4,507	22,535	5,128	138.90
W. E. Gordon	954	–	13,206	66,030	6,972	173.30
C. H. Greenewalt ..	–	–	10,637	53,185	–	–
R. L. Hershey	–	–	12,908	64,540	–	–
G. E. Holbrook	–	–	18,389	91,945	–	–
E. R. Kane	1,287	1,716	4,080	20,400	5,440	126.64
S. Lenher	–	–	15,153	75,765	–	–
C. B. McCoy	2,031	–	21,539	107,695	16,272	135.15
R. R. Pippin	–	–	15,083	75,415	–	–
R. L. Richards	–	–	7,484	37,420	–	–
I. S. Shapiro	954	1,272	1,101	5,505	1,368	136.66
L. S. Sinness	954	–	15,074	75,370	11,176	154.26
Directors and officers as a group	10,527	6,240	200,621	$1,003,105	70,900	$141.25

(1) These amounts, which represent payments under awards for years prior to 1971, are not included in remuneration data shown in the Tabulation concerning "Directors of Du Pont".

(2) No stock options were exercised by directors or officers in 1971.

(B) The number of shares of Du Pont common stock listed does not include unissued and undelivered "B" Bonus shares since an award in stock of the Company does not vest in the beneficiary any interest in such shares until time of delivery.

In addition, other issues were beneficially owned by directors as follows: Du Pont preferred stock $4.50 series shares by Walter S. Carpenter, Jr., 17; Emile F. du Pont, 15; Irénée du Pont, Jr., 2,137; Christiana 7% cumulative preferred shares by Walter S. Carpenter, Jr., 13; Irénée du Pont, Jr., 251; Wm. Winder Laird, 50; Remington Arms Company, Inc. (a subsidiary) common shares by Joseph A. Dallas, 200; David H. Dawson, 100; Charles B. McCoy, 200.

The Tabulation includes, in some instances, shares in which members of the director's immediate family have a beneficial interest. These shares are reported because of the Securities and Exchange Commission's interpretation of beneficial ownership. The directors disclaim beneficial ownership of any such shares.

In addition to the shares shown in the Tabulation, members of W. Sam Carpenter, III's immediate family have a beneficial interest in 47,872 shares of the common stock and 271 shares of the preferred stock—$4.50 series of Du Pont and 6,470 shares of the common stock of Christiana. Mr. Carpenter disclaims beneficial ownership of these shares.

In addition to the shares shown in the Tabulation, members of Lammot du P. Copeland's immediate family have a beneficial interest in 110,199 shares of the common stock of Du Pont and 66,337 shares of the common stock of Christiana. Mr. Copeland disclaims beneficial ownership of these shares.

In addition to the shares shown in the Tabulation, Irénée du Pont, Jr. is a co-trustee of trusts in which members of his immediate family have a beneficial interest. These trusts hold 20,570 shares of the common stock of Du Pont and 42,887 shares of the common stock of Christiana. Members of Mr. du Pont's immediate family also have a beneficial interest in 3,700 shares of the common stock of Du Pont, and 40,628 shares of the common stock of Christiana. Mr. du Pont disclaims beneficial ownership of these shares.

In addition to the shares shown in the Tabulation, members of George P. Edmonds' immediate family have a beneficial interest in 7,721 shares of the common stock of Du Pont and 131,579 shares of the common stock of Christiana. Mr. Edmonds disclaims beneficial ownership of these shares.

In addition to the shares shown in the Tabulation, Crawford H. Greenewalt is an income beneficiary for life in a trust that holds 6,010 shares of the common stock of Christiana. Also, members of Mr. Greenewalt's immediate family have a beneficial interest in 2,886 shares of the common stock and 188 shares of the preferred stock—$4.50 series of Du Pont and 73,930 shares of the common stock and 1,486 shares of the 7% cumulative preferred stock of Christiana. Mr. Greenewalt disclaims beneficial ownership of these shares.

In addition to the shares shown in the Tabulation, R. R. M. Carpenter, Jr., is an income beneficiary for life in 56,922 shares of Christiana common stock held in two trusts, and in one-fourth of the income of a third trust which holds 305,307 shares of Christiana common stock. Members of Mr. Carpenter's immediate family also have a beneficial interest in 4,000 shares of the common stock of Christiana. Mr. Carpenter disclaims beneficial ownership of these shares.

Members of Ellason Downs' immediate family have a beneficial interest in 150,849 shares of the common stock of Christiana and 4,800 shares of the common stock of Du Pont. Mr. Downs disclaims beneficial ownership of these shares.

In addition to the shares shown in the Tabulation, S. Hallock du Pont is a beneficiary for life in part of the income of a trust which holds 48,650 shares of the common stock of Du Pont. Members of Mr. du Pont's immediate family have a beneficial interest in 20,307 shares of the common stock and 75 shares of the 7% cumulative preferred stock of Christiana and 2,000 shares of the common stock of Du Pont. Mr. du Pont disclaims beneficial ownership of these shares.

In addition to the shares shown in the Tabulation, members of A. Felix du Pont, Jr.'s immediate family have a beneficial interest in 21,223 shares of the common stock of Christiana and 3,374 shares of the common stock of Du Pont. Mr. du Pont disclaims beneficial ownership of these shares.

In addition to the shares shown in the Tabulation, members of Edward B. du Pont's immediate family have a beneficial interest in 30,129 shares of the common stock of Christiana.

In addition to the shares shown in the Tabulation, Bayard Sharp is an income beneficiary for life in a trust which holds 7,000 shares of the common stock of Christiana. He also has a contingent interest in a separate trust which holds 500 shares of the common stock of Du Pont. Members of Mr. Sharp's immediate family have a beneficial interest in 600 shares of the common stock of Du Pont. Mr. Sharp disclaims beneficial ownership of these shares.

In addition to the shares shown in the Tabulation, members of Hugh R. Sharp, Jr.'s immediate family have a beneficial interest in 3,976 shares of the common stock of Du Pont and 3,920 shares of the common stock of Christiana. Mr. Sharp disclaims beneficial ownership of these shares.

(C) These directors are also directors of Christiana.

(D) These directors of Du Pont are all "associates" according to the regulations of the Securities and Exchange Commission. This group also has other individual and corporate "associates" which held in the aggregate as of December 31, 1971, the following securities:

Company	*Shares*
E. I. du Pont de Nemours and Company—common	13,649,540(1)
E. I. du Pont de Nemours and Company—preferred $4.50 series	18,241
Christiana Securities Company—common	2,499,519
Christiana Securities Company—7% cumulative preferred	279

(1) This total includes 13,417,120 shares (28.3%) of Du Pont common stock owned by Christiana.

(E) The following tabulation shows the estimated annual pension payable by Du Pont to an employee, including any employee who is a director or officer, upon retirement with full pension after selected periods of service under the Pension and Retirement Plan:

Average Pay, Exclusive of Bonus, During 5 Years of	*Estimated Annual Pension Payable by the Company Based on Service of:*			
Highest Pay	*25 years*	*30 years*	*35 years*	*40 years*
$ 5,000(1)	$ 1,700	$ 1,940	$ 2,180	$ 2,420
10,000	2,750	3,300	3,850	4,400
25,000	6,875	8,250	9,625	11,000
50,000	13,750	16,500	19,250	22,000
75,000	20,625	24,750	28,875	33,000
150,000	41,250	49,500	57,750	66,000
250,000	68,750	82,500	96,250	110,000

(1) Benefits illustrated at this pay level are calculated under the minimum formula.

(F) Directors of Christiana are all "associates" according to the regulations of the Securities and Exchange Commission. This group also has other individual and corporate "associates" which held in the aggregate as of December 31, 1971, the following securities:

Company	*Shares*
Christiana Securities Company—common	1,832,820
Christiana Securities Company—7% cumulative preferred	2,353
E. I. du Pont de Nemours and Company—common	319,117
E. I. du Pont de Nemours and Company—preferred $4.50 series	286

(G) Edward B. du Pont, a director and stockholder of Atlantic Aviation Corporation, is a relative, under Securities and Exchange Commission concepts, of certain directors of Du Pont and Christiana. During 1971, Atlantic and its subsidiaries had sales to Du Pont and its subsidiaries totaling about $1,400,000, involving airplane charter service, and the maintenance, operation and storage of Du Pont's own planes.

CHRISTIANA EXHIBIT NO. 1.

June 6, 1972

Kidder, Peabody & Co. Incorporated
10 Hanover Square
New York, New York 10005

Gentlemen:

The Board of Directors of Christiana Securities Company has appointed a committee to consider the advisability of a possible merger of Christiana and E. I. du Pont de Nemours and Company, and to negotiate any proposed terms of such a merger with a committee appointed by the Du Pont Company Board. We request that you act as adviser to the Committee appointed by the Christiana Board.

You are requested to render a report to the Christiana committee, based upon a financial analysis and evaluation and taking into consideration all material factors you believe to be relevant, of the range of ratios of exchange of Christiana Common Stock for Du Pont Common Stock in such a merger, and your recommendations as to terms for exchange of Christiana Preferred Stock, which you consider fair and reasonable to Christiana and the shareholders of Christiana.

We understand that you will undertake the study necessary to prepare a preliminary report and recommendation with a view to furnishing such material by June 20, 1972. Your final report which will be accompanied by your opinion as to the reasonableness and fairness of the transaction should be submitted to the committee no later than June 30, 1972.

We expect that your opinion will be referred to in a proxy statement that will be sent to the stockholders of

both companies and in an application that will be filed with the Securities and Exchange Commission under Section 17 of the Investment Company Act of 1940.

If you are willing to accept this assignment, please sign and return the two copies of this letter to the undersigned.

Very truly yours,

Special Committee of the
Board of Directors
CHRISTIANA SECURITIES COMPANY

The foregoing assignment
is hereby accepted.
KIDDER, PEABODY & CO. INCORPORATED

CHRISTIANA EXHIBIT NO. 2
(exclusive of exhibits)

[Letterhead of]

KIDDER, PEABODY & CO.
INCORPORATED

10 HANOVER SQUARE
NEW YORK, N. Y. 10005

CONFIDENTIAL

July 7, 1972

REPORT TO THE SPECIAL COMMITTEE
OF THE BOARD OF DIRECTORS
CHRISTIANA SECURITIES COMPANY
CONCERNING A POSSIBLE MERGER WITH
E. I. DU PONT DE NEMOURS AND COMPANY

The purpose of this report is to present our recommendations as to an appropriate range of exchange ratios between the Common shareholders in the proposed merger and as to an offer we would consider fair to the holders of Christiana's 7% Preferred Stock. The recommendations presented herein are based upon a financial analysis and evaluation of all factors which we believe to be relevant. While this report does not purport to demonstrate the full range of our considerations and investigation, we have presented herein the relevant arguments which support our conclusions and are prepared to discuss the entire detailed analysis or any part thereof.

Recommendations

We have recommended as a starting point for negotiations between the Parties, a ratio of exchange between the Common shareholders in a merger of the Christiana Securities Company ("Christiana") and E. I. du Pont de Nemours and Company ("Du Pont"), under which the Christiana shareholder will receive the underlying Net Asset Value of his shares, as further defined herein, in Du Pont Common Stock valued at a closing market value at a date or dates proximate to the closing of the merger, (the "Valuation Date"). In our opinion, such an exchange ratio can range from a recognition of 2.0% premium over the Net Asset Value of Christiana to a recognition of a 3.0% discount without constituting an unfair offer to the Christiana shareholder. Such a range exists because different persons might place different weights on the factors discussed herein. We further recommend that the Christiana Preferred Shareholders receive an amount of Du Pont Common Stock, valued on the same date, equal to $120 per Preferred Share, plus any accrued dividends.

Net Asset Value, as used herein, incorporates certain additional underlying recommendations by us as to the valuation of Christiana's assets. We define this term to mean:

(i) Christiana's cash and short-term investments less liabilities as of the Valuation Date; plus

(ii) Christiana's holdings in Du Pont Common stock, $4.50 Preferred stock and Wilmington Trust Company Common stock at their closing market values as of the Valuation Date; plus

(iii) an independent appraiser's value of $24,250,000, less capital gains taxes for the News-Journal Company; plus

(iv) a value of 0 (zero) for Christiana's Federal tax claim; less

(v) Christiana's expenses relating to this merger and one-half of any joint expenses; and less

(vi) the number of Christiana 7% Preferred shares outstanding on the Valuation Date times $120.

For the purposes of our analysis and comparisons we have used closing market prices on April 28, 1972 in lieu of the Valuation Date. The resulting Net Asset Value and exchange ratio as of that date are shown in Exhibit 1.

We are of the opinion that our recommendations yield terms which are fair and reasonable and do not involve overreaching on the part of any person concerned. We believe that our recommendations are so structured as to be free of market forces during the intervening period until a merger be consummated, which might otherwise distort the underlying relationships.

Assumptions

Our recommendations are based, among other things, upon a number of assumptions. Those which relate to a specific argument or conclusion are included in the appropriate text which follows, while the more general assumptions are cited in Exhibit 2.

Approach

We have viewed the development of our recommendations as consisting of two separate tasks: the determination of a fair exchange formula, and the valuation of the items to be exchanged. We have followed three approaches to develop our recommended exchange formula and our report is organized accordingly. These approaches are comprised of an examination of the facts of the immediate situation to deduce a fair arrangement, an

examination of similar cases to discern the dictates of precedence, and an exploration of certain pragmatic considerations which appear to bear heavily on the contemplated merger. We have also relied on these three types of considerations, where appropriate, to develop our valuation recommendations and suggested terms for treatment of the Christiana Preferred stock.

I. Determination of a Fair Exchange Formula

Our first approach requires an examination of various financial and non-financial factors to establish those which are material and useful in determining the relative values possessed by the parties to the transaction. Typically, these include financial factors such as earnings, dividends, book values and market values along with non-financial factors which bear on the relative future prospects of the merger partners. The nature of Christiana is such that we have also considered Net Asset Values. There follows a summary of our judgment as to the utility of each of these factors in deriving an exchange formula.

Non-Financial Factors—In a "going-concern" merger between two unrelated companies, we would make a substantial review of non-financial factors. These typically include considerations such as relative rates of growth, market position, industry outlook, etc., which may influence the relative future prospects of the companies, and thus their relative present values. In the case of Christiana and Du Pont, however, we do not believe that such an examination is necessary, since Christiana's assets consist almost entirely of Du Pont Common stock. This being the case, the fundamental risks and rewards to the stockholders of either company are essentially identical and of little use in evaluating the exchange.

Earnings—Substantially all of Christiana's revenues are derived from the dividends on its Du Pont stock holdings. After deduction of minor operating expenses and taxes, which together accounted for approximately 7.5% of total revenue in 1971, these dividends constitute Christiana's reported income. Since Du Pont, in turn, has maintained an earnings pay-out ratio in the 69%-75% range in the last five years, and reduced its dividend to do so in 1969 and 1970, it is obvious that Christiana's year-to-year reported earnings depend heavily on those of Du Pont and are fundamentally dependent upon them in any case. Further, we do not consider earnings a good measure of the value or performance of passive investment companies such as Christiana which do not seek to improve their performance by redeploying investments. We therefore believe that comparative reported company earnings are not an important consideration in this merger.

If the merger be consummated on any reasonable terms, there will be a large increase in reported earnings per former Christiana share on a pro forma basis. This increase is largely apparent for it arises from the fact that Christiana's accounting system does not recognize its ratable share of the increase in Du Pont equity resulting from earnings retention. Restating the pro forma comparison on this basis shows that there can be a minor real increase in earnings per former Christiana share with certain exchange ratios and a corollary minor dilution in reported earnings per Du Pont share. This dilution is also not real, as shown in subsequent paragraphs. These changes in reported earnings per share arise from a combination of minor structural and economic factors which include the elimination of the 1971 7.2% tax rate on Christiana's income, Christiana's non-recognition of its increase in the equity of the News-Journal Company, the issuance by Du Pont of different amounts of shares than

are received from Christiana, and low historical earnings from Christiana's ancillary assets, among others. However, we do not consider these changes relevant to the determination of a fair exchange formula for reasons which include those cited above. In addition, these changes are a result of the pro forma combination of historical results which are not representative of the likely utilization of Christiana's assets. In our opinion, discussed more fully in another subsequent section, there will not be a dilution of Du Pont future reported earnings per share under any reasonable exchange formula—in fact there will probably be an incremental benefit—when viewed in a manner reflecting the likely actual utilization of Christiana's assets.

Dividends—Under any reasonable exchange ratio, a former Christiana shareholder would have received an increase in dividends, on a pro forma historical basis. However, for the reasons cited in the foregoing paragraph and the fact that these historical restatements are a function of assumptions on dividend policy which may be subject to change upon the dissolution of Christiana, among other things, we do not believe that comparative dividends are useful measures of value in this situation.

Market Values—Typically, we would consider market values as highly determinative of relative values because we believe they would incorporate other financial and non-financial factors. We do take this posture with respect to the Du Pont common stock which is listed, is widely followed, and appears reasonably priced when compared to other somewhat similar concerns.

Christiana's common stock typically sells in the over-the-counter market at a substantial discount from its underlying asset value. This is usual for a closed-end investment company. Explanations of such discounts generally include the presence of unrealized capital gains liabilities, the thin markets of such securities, the Federal income tax

on inter-corporate dividends and a lack of investor familiarity with closed-end investment companies. While we do not believe that the capital gains liability is a major consideration for most Christiana investors, we cannot conclude that Christiana's current market price is unrealistic in terms of its long-term historical relationship with Du Pont's market price or the experience of the few closed-end investment companies which might be considered as somewhat comparable to Christiana.

We do reject the market price as a useful measure of value to the Christiana stockholder in this merger evaluation. First, the market price reflects a going-concern assessment of the security, whereas Christiana will cease to exist after this merger. In addition, there are other means by which the Christiana stockholder can realize a value approximating the underlying Net Asset Value of his holding. These are: (i) a merger with an alternate partner, and (ii) an optional stock dividend open-market purchase plan. Since each of these other arrangements yields a value considerably higher than the current market, and are available to Christiana acting alone, we do not believe that the market value of Christiana stock merits further consideration.

We have been informed that counsel is not aware of any plans to register and sell Du Pont stock on the part of any Christiana holder, and thus do not anticipate any impact to the Du Pont stock from this quarter. While the merger will also involve substantial quantities of unrestricted Du Pont stock, we do not foresee a market depression from this stock. Christiana shareholders do not appear to be oriented to profit-taking, evidenced by the fact that the substantial post-announcement price rise caused by arbitrage of the two securities did not occasion any significant additional Christiana volume.

Furthermore, we believe that there is a possibility that the Du Pont stock may be favorably influenced by the consummation of the merger due to the major increase in the publicly available supply, the dispersion of the overhanging block, and the elimination of Christiana's potential control of the company. These factors lead us to believe that the transaction's market impact is indeterminate at worst and more likely to be favorable than otherwise. Even in the event that an adverse influence did result, the major portion of such an impact will come from investor anticipation upon the announcement of terms, well before the closing. Our recommendation is structured so that any such impact would not affect the relative positions of either party.

Book Value—The contemplated merger will provide a substantial increase in book value per former Christiana share, and a minor dilution per Du Pont share, because of the low Christiana book value resulting from its policy of paying out almost all its earnings and the low cost of its Du Pont stock. The book values result from accounting conventions which do not purport to measure going-concern or dissolution values, as is illustrated by the fact that Christiana's book value approximates a single year's dividend payment. We do not consider relative book values or changes therein determinative concepts in establishing an equitable exchange formula.

Net Asset Value—Net Asset Value, as defined in an earlier paragraph, is not a useful concept for measuring the going-concern value of an operating company such as Du Pont for much the same reasons as is the case with its book value. However, in our opinion, it is the relevant measure of value for Christiana in the analysis of this merger. Psychologically, we believe that it is the value the Christiana stockholder perceives himself as holding, although there

may be structural impediments which prevent him from realizing it as Christiana is currently constituted. Furthermore, there are other alternatives by which Christiana can approximate this value for its shareholders acting on its own.

The first alternative available to Christiana is to solicit a merger partner in the form of an operating company or another investment company. The business, financial and legal difficulties are admittedly large and the time horizon extended. However, the possible interest of an aggressive management in an unrelated industry, a foreign company or other investment companies must bear some weight in the face of numerous examples of successful tenders for large companies by aggressive smaller concerns, instances of foreign control of major American businesses, and mergers of large investment companies.

Another alternative is one whereby Christiana would establish an optional plan for the payment of cash dividends to a trustee in lieu of a stockholder, similar to the plans presently offered by at least two other closed-end investment companies. Acting on behalf of the stockholder (who remains liable for taxes on the dividends), the trustee converts the cash dividend to a stock dividend through purchases on the open market when the stock is selling at a discount, and purchases from the company at Net Asset Value otherwise. In addition to certain other benefits to the stockholder, we believe that such a plan would tend to eliminate the discount from the Christiana market price over a period of time; both from the presence of the trustee in the market and buying in anticipation of the plan.

It is obvious that such a dividend plan would not be accepted by all Christiana stockholders. However, the two plans we are aware of enjoyed participations in excess of

50% in 1971, notwithstanding the fact that one company has a growth and income orientation similar to Christiana and initiated its repurchase plan many years after its incorporation. If an equivalent number of Christiana shareholders were to elect such a plan, the trustee would more than double Christiana's average daily volume since January 1, 1972, on a continuing basis. Particularly in light of the recently demonstrated price insensitivity of normal Christiana volume, it is our judgment that such a plan could significantly reduce, if not eliminate, the market discount over a period of time.

Christiana also has the alternative of distributing its assets to its shareholders. A general liquidation, however, would be prohibitively expensive because of the tax implications. We have also considered special forms of liquidation. One of these is a plan such as that used by G. M. Shares wherein the stock of a closed-end investment company was redeemed at Net Asset Value in stock from the investment company holdings. We have been advised that such a plan is no longer economically viable for Christiana because it could not distribute Du Pont stock without recognizing the inherent capital gain.

We have also considered the alternative of a Section 333 "one-month" liquidation which virtually duplicates the results of this merger for the Christiana shareholder. We are informed by counsel that, given an 80% shareholder election, Christiana could liquidate and distribute its assets to its shareholders who would then be taxed to the extent of their ratable share of Christiana's "accumulated earnings and profits" as defined by the Internal Revenue Code. However, we have also received an opinion from counsel indicating that the Federal income tax cost of this alternative cannot be determined at this time and that it does not constitute a viable alternative.

Given the existence of these alternative means for approximating their Net Asset Value, it is our opinion that this is the relevant measure of value for the Christiana stock.

Financial Impact

The foregoing paragraphs indicate the rationale for our recommendation of an exchange of Du Pont shares valued at market for Christiana shares at their underlying Net Asset Value as a starting point for negotiations. Accepting, for the moment, our recommendations as to asset valuation, the equity in such an exchange is demonstrable.

An examination of the salient financial factors which would have resulted from a pro forma restatement of 1971 results based upon an exchange accomplished by our recommended formula on April 28, 1972, and at the extremes of the range which we consider fair, shows that earnings are the only changes shown which might be deemed relevant.

There is a dilution of reported pro forma earnings of less than 0.5% for Du Pont, and an apparent pro forma increase of 59.3% over Christiana's reported 1971 earnings in the recommended Net Asset Value exchange. This reduces to approximately 5.6% when Christiana's ratable share of the increase in Du Pont's equity is considered and would reduce further if the News-Journal were considered on the same basis.

The dilution to Du Pont has the appearance of a disadvantage, and results from exchanging an increment of 153,616 shares more than those it will cancel upon receipt from Christiana. These are exchanged in return for Christiana's net cash and ancillary assets. These assets, as they were employed by Christiana, did not earn a sufficient amount to overcome their dilutive effect in a pro forma

historical combination of reported earnings. However, it is our understanding that the majority of these assets will be redeployed once assumed by Du Pont and we have concluded that they will be a contribution to the Du Pont stockholders earnings in that more realistic context.

Exhibit 3 provides an analysis of the earnings contribution from the exchange of these incremental assets and shares. The calculation clearly shows the source of the dilution if the assets are assumed to contribute to Du Pont earnings in the same manner in which they contributed to Christiana's. If, however, one assumes a sale and redeployment of these assets, after capital gains taxes, their employment in an almost riskless 5% return is more than sufficient to offset their dilutive pro forma effect. In fact, if employed at a return approximating Du Pont's 1971 return on equity, they would contribute $19.90 per incremental share or 271% of Du Pont's reported actual 1971 earnings per share. If employed at the 15% return on 1971 year end equity implied by a 1972 "street estimate" of $8.50 for Du Pont, they would contribute $24.67 per share or 283% of the estimated earnings value. In our opinion, this incremental approach is more representative of the actual post-merger earnings potential of the combined companies than the pro forma recasting of historical results. It demonstrates a potential financial advantage available to Du Pont from the merger. In any case, Du Pont could employ the funds realized to repurchase essentially the same number of shares in the open market. On this basis there would be no dilution from a Net Asset Value exchange.

Conclusion from this Approach

We have shown that our recommended starting point for negotiations can result in certain financial advantages to both parties. Our opinion of its fairness comes from

consideration of all of the advantages and disadvantages to both parties. We have summarized our assessment of these on Exhibit 4.

On balance, it is our judgment that these factors are in a proper relationship. It is clear that the major advantage received is the realization of underlying asset value by the Christiana shareholder. However, it is equally clear that there are alternative means by which he can realize a significant portion of this value without the participation of Du Pont and thus the advantage cannot be construed to be consideration given by Du Pont. Furthermore, in return for the minor increase in value above that which he can realize on his own, Christiana is offering a controlled dispersion of the only large block of Du Pont common existing. In our judgment, this block is sufficient to control Du Pont should Christiana care to exercise it, and would be prohibitively expensive to reassemble once dispersed. We cannot, however, impute a large premium over Net Asset Value for this disadvantage to Christiana. We believe that the advantage to Du Pont lies in control of the dispersion, rather than the dispersion itself which Du Pont would also realize as an incidental benefit of at least one of Christiana's alternatives to the merger.

We believe that equity is achieved for Du Pont in a Net Asset Value exchange. While the tangible advantages are not as large, this is often the case in merging concerns of different scale and the intangible benefits such as improvement of its corporate image could be substantial. Furthermore, they cannot be realized without the cooperation of Christiana. There is also a possible financial advantage to Du Pont in terms of earnings on the marginal shares it will issue and in our judgment, there are no significant disadvantages. Thus, particularly when viewed in terms of the actual new shares Du Pont must issue at

Net Asset Value we conclude that there is a significant inducement for Du Pont to consummate the merger and a fair realization of benefits in light of the consideration actually given.

We have also confirmed the validity of our recommendations of a Net Asset Value approach for Christiana through a survey of the general acquisition market. In our opinion, premiums of 33-40% over market value are fair offers for the acquisition of control of major industrial concerns. Since this transaction represents an opportunity for Du Pont to acquire, and thus eliminate, the potential control of itself, we believe a higher premium might have been justified. Thus, had we found Christiana's market value a valid basis for beginning our analysis, we would have concluded that a value near or in excess of Net Asset Value would be required to effect a fair offer.

Study of Precedents

Our second approach to the exchange ratio was a careful examination of similar cases to discern whether precedental situations might indicate general business or legal practices in such situations and provide insight into the expectations of Christiana stockholders.

General Investment Company Mergers—Our cases were drawn from several sources including: merger exemptions granted under Section 17 of the 1940 Investment Company Act as suggested by counsel and otherwise; mergers of active holding companies granted an earlier exemption under Section 3(b)(2) of the 1940 Act; and mergers and exchanges directly involving the Christiana Securities Company. Our judgment as to the value of such cases was predicated upon the similarity of the case to the situation at hand. We relied upon the existence of characteristics including the following:

(i) Closed-end investment company merging into a surviving operating company,

(ii) Investment company, a significant minority shareholder of the operating company,

(iii) Operating Company securities comprising all or most of the assets of the investment company,

(iv) Securities of the investment company publicly traded at a discount from underlying net asset value,

(v) Operating company securities traded actively and widely held, and

(vi) Mutual directorships and/or substantial mutual stockholdings.

Our examination included research into the original applications for exemption, SEC notices, orders, and opinions where available, analysis of proxy statements, and in some cases discussions with principals and advisors directly involved. We have also examined SEC documents and proxy material for cases which we do not consider directly relevant.

In our opinion, this review fully supports our recommendations. The following discussion will highlight the major supporting precedents and attempt to distinguish the few questionable cases which we found. In our opinion, all of the cases reviewed by us and found to be a relevant precedent in terms of our criteria provide for an exchange parallel to our recommendations, while none of those cases which comes to a different conclusion is sufficiently similar to the merger under analysis.

Four cases provide close supporting data for our conclusion. In *Huyler's* (1969), the closed-end non-diversified investment company (Huyler's) merged into an operating company, Altamil. Huyler's owned 11% of Altamil's stock which comprised 99% of Huyler's assets. Huyler's had a limited OTC market, and its stock traded at a discount from its underlying Net Asset Value. Altamil was widely traded on the American Exchange. The exchange ratio was based on Net Asset Value despite the Huyler's trading discount. Huyler's did contribute the costs of the merger and some trivial assets ($3,500 value) in the final merger agreement. As to these, we were informed by the principals that they were of the opinion that there were no advantages to Altamil in the merger, and that the majority of the contributed assets were old office furniture and equipment in use by Altamil for some time.

Eastern States Corporation (1969), a registered closed-end investment company, owned 7% of the voting securities of St. Regis Paper Company. These holdings constituted substantially all of its assets. One director and shareholder of St. Regis owned 29.08% of the voting securities of Eastern. In a sale of its assets to St. Regis, the exchange ratio was based upon the Net Asset Value of Eastern's underlying shares. St. Regis shares were exchanged on a share-for-share basis for the St. Regis shares held by Eastern (less net liabilities assumed by St. Regis).

U. S. Foil (1960) was an investment company which had received a 1940 Act exemption under Section 3(b)(2). Foil owned 50.9% of the voting securities of Reynolds Metals, constituting 97.6% of Foil's total assets. Foil's securities traded at a substantial discount from its Net Asset Value. The exchange ratio was intended to provide for a Net Asset Value exchange but actually resulted in a slight premium over the underlying Net Asset Value and a substantial premium over the market price of Foil's stock.

Northeast Capital Corp. (1959) had also received a previous exemption from the 1940 Act under Section 3

(b)(2). Northeast owned 29% of the securities of Mack Truck, and these plus a holding in Mack debentures constituted more than 80% of Northeast's assets. Northeast's stock traded at a discount from its underlying Net Asset Value. The exchange ratio was intended to provide for a net asset value exchange but actually resulted in a small premium over Net Asset Value and a premium over the market price of Northeast's stock. As part of the merger agreement, Northeast agreed to convert its other assets to cash prior to the merger.

In our opinion these four cases present the most factually comparable circumstances to the proposed C. D. merger. In each case, an investment company originally registered under the Investment Act of 1940 or requiring registration but for its active participation, merged or sold its assets to a surviving operating company. In each case, a significant percentage of the operating company's securities comprised 80%-99% of the assets of the merged investment company. Two of the cases (Huyler's and Eastern States) involved presently registered investment companies where the exchange ratio provided for a Net Asset Value exchange recognizing the underlying market values of the operating company's securities owned. The other two cases (U. S. Foil and Northeast Capital) presented two actively controlling exempted investment companies where the exchange ratio was intended to provide for a Net Asset Value exchange but actually resulted in a slight premium over the underlying Net Asset Value. In each of the cases, the market value of the investment company securities sold at a slight to substantial discount from underlying Net Asset Value. We conclude that these four precedents support our recommendation.

There are two other cases, *Detroit and Cleveland Navigation* and *Harbor Plywood*, which are factually similar in all respects except that the operating companies held 12.8% and 73%, respectively, of the investment companies. In both cases, the shareholders of the investment company were given a premium over the Net Asset Value of their shares in the exchange offers. Since the investment companies' shares traded at a discount from the underlying Net Asset Values, the offers represented a significant premium over market value.

In our entire review, we found very few cases, much less comparable to the present situation, which clearly involved exchange ratios below underlying Net Asset Value. These cases may generally be distinguished from the present situation on the basis of one or more of the following criteria: (i) nature of the companies merged, (ii) reasons for merger, (iii) intentions of merger agreement, (iv) nature of resulting company, (v) relative advantages, disadvantages to each of companies involved, and/or, (vi) relative initial bargaining positions.

One of these is Delaware Realty and Investment Company wherein two closed-end investment companies (Delaware and Christiana) merged. Prior to the merger, Delaware owned 32.7% of Christiana. A discount of approximately 1.5% was applied to the adjusted underlying Net Asset Value of Delaware stock to determine the exchange ratio; however, the actual reduction in Net Asset Value amounted to only 0.9% because Delaware was a substantial common stockholder of Christiana and therefore the Delaware stockholders received their pro rata share of enhancement in the Net Asset Value of Christiana stock resulting from the 1.5% discount. The reasoning behind the discount was to provide an inducement to the Christiana shareholders, who enjoyed no other major advantage from the merger.

The Delaware Realty merger can be clearly distinguished from the present circumstances. The major

factual differences are: (i) that Delaware holders received a publicly traded security in exchange for their private holdings, an advantage which we consider to be of significantly greater consequence than the liquidity improvement in the proposed merger, (ii) that the earlier merger represents a combination of two investment companies who continued to operate as an investment company after the merger, indicating that a "going-concern" valuation technique was appropriate rather than the dissolution oriented approach we believe is appropriate for Christiana in the present situation, (iii) that all 1940 Act requirements continued to exist after the earlier merger, in contrast to the considerable simplification which is effected when Du Pont ceases to be a 1940 Act "affiliate company" through the dissolution of Christiana, (iv) that the Wilmington Trust Company held 23.6% of Christiana's common stock and 11.2% of its Preferred which was similar to the Delaware holdings of 32.7% and 29%, respectively, of such securities; thus constituting a second potentially controlling block of stock which has no analog in the present situation, (v) that there was a substantial identity of interest in the holders of the securities of both companies, further minimizing the economic effect of the discount on the Delaware shareholders; which is not the case with the substantial bodies of public stockholders involved here, and (vi) that Delaware was a private company, and thus did not answer to public stockholders as is the case with Christiana.

We believe that each of these factual differences worked to minimize the advantages to the Christiana stockholder in the earlier merger. In our case, however, we believe that each of these points underscores the advantageous position of the Du Pont stockholder, on balance. These, together with the other advantages we have

cited constitute inducement to the Du Pont stockholder. For the foregoing reasons, we could not justify a substantial deviation from our Net Asset Value recommendation on the grounds of the Delaware precedent.

The other cases which suggest an exchange at other than Net Asset Value are even more dissimilar to the proposed merger than the *Delaware* case. They all involve very small companies with Net Asset Values ranging from $5 to $30 million. Thin or non-existent markets for their stock and assets are present in some cases, and others involve private companies. There are also unique circumstances present in many cases which force the use of an unusual exchange ratio or valuation technique. Examples of these are an SBIC with assets of indeterminate value, an "operating company" whose assets are largely investments, the presence of uncertain foreign obligations, and going-concern mergers between two investment companies.

In summary, such other cases are all distinguishable from the general trend of the precedents. The first four cases, *Huyler's, Eastern States, U. S. Foil, Northeast Capital,* are both factually closer to the Christiana and Du Pont merger and also are closer to the general trend of investment company-operating company mergers exchanging at net underlying asset values, as revealed in SEC opinions, counsel reviews, and proxy statements.

Other Christiana Precedents—In addition to the Christiana/Delaware merger, which we do not believe provides guidance for the reasons cited above, there are two other exchanges by Christiana which deserve consideration. These are the exchange offers to Christiana shareholders whereby they could acquire shares of General Motors in one case and Hercules Powder in the other in return for their Christiana shares. In both cases, the stated intention

was to allow the Christiana shareholders to realize full Net Asset Value in the exchange. Based upon the price data provided in the proxy statements, they actually provided for minor premiums. While there is a difference in motivation from the present case, we believe that these may indicate a commitment on the part of the Christiana directors to value the stock at Net Asset Value.

Conclusions from Precedents

In our opinion there is a substantial body of precedents which supports a Net Asset Value exchange and virtually no comparable situation which yields a discount. We conclude from this review that significant justification should be present to depart substantially from the Net Asset Value precedents. On balance, we believe that this body of precedents supports our recommendations.

Pragmatic Considerations

As a third approach, we have explored the pragmatic aspects of the proposed merger and believe that they may bear on the selection of the exchange formula. There are present here a series of interlocking directorships and stockholder positions which are well-publicized. The most recent example is a report by a "public-interest" group which was broadly reported by the general media including such diverse publications as *Business Week* and *Women's Wear Daily*. Given the difficulty of accomplishing the transaction at arms-length in any case, we must question whether any arrangement which does not appear to give the Christiana shareholder his underlying values does not run the substantial risk of being criticized as unfair. Since we believe that the ratio which best meets this requirement is to offer the Christiana shareholder the underlying Net Asset Value of his holdings, we have recommended that negotiations begin at this point.

We also note that from time to time certain legislation has been introduced which would prevent Christiana from accomplishing a tax-free reorganization and therefore prevent its shareholders from realizing the substantial benefits of such a transaction as we have outlined them herein. We have been advised that such a bill has been introduced into the current session of Congress. While there are questions as to that bill's applicability and chances for passage, its introduction underscores the risk of losing the alternative of the tax-free reorganization. We believe that there is an advantage to the Christiana stockholder to accomplishing a merger in the near future in view of the presence of this risk.

Recommended Exchange Formula

The foregoing arguments form the major body of support for our recommendations as to an exchange formula for the proposed merger and the range over which we would consider such ratios fair.

II. Valuation of Christiana Assets

The following paragraphs detail our recommendations for the treatment of those Christiana assets where a valuation issue might exist in assessing their contribution to Net Asset Value.

Du Pont Common and Preferred Stock—Any Christiana capital gains tax liability or benefit is extinguished upon consummation of the proposed merger for these securities. Furthermore, since this is not a class-wide involuntary action, and other shares are readily available in the market, we do not find any support for an argument that the Du Pont Preferred might deserve a liquidation or redemption value. Therefore we recommend valuation of these assets at their market values.

News-Journal Company—We have received and relied upon an experts' appraisal of this property. He estimates the value of the entire property in a non-distress sale to be $24,250,000. There is a substantial body of precedent which minimizes the capital gains aspect of such an acquisition, including the *Pittsburgh Coke* and the *Delaware Realty* case where the liability was split. These generally indicate that capital gains liabilities should not be considered unless there is a compelling reason for the disposal of the asset, such as an anti-trust action. We recognize that this may be present in the proposed merger and therefore are of the opinion that the capital gains tax deserves consideration. We also recognize the possibility of exchanging this particular asset for a more acceptable one in a tax-free reorganization. On balance, we are of the opinion that an investment company stockholder has a fair claim to the market value of his ratable share of investments on a going-concern basis. We believe however, that the appraisal reflects an acquisition premium over the going-concern value and that the fairest treatment of this asset is to recognize both the premium and capital gains liability in Christiana's valuation.

Wilmington Trust Stock—The Christiana holdings of 69,216 shares of the Wilmington Trust Company contain a capital gains liability using the market value as of April 28, 1972. In our opinion, this capital gains liabilities should not act to reduce the value of the Christiana stock in the exchange. First, we cannot identify a compelling reason for the disposal of this small, non-controlling holding as is the case for the newspaper. We further note that Du Pont had a securities portfolio of $14.1 million on December 31, 1971 and that such a portfolio has existed at year end at least since 1967. Thus holding securities would not constitute an unusual activity for the company.

Therefore any liquidation and incurrence of the capital gains tax would be done at the pleasure of the Du Pont company and we believe that the expenses should be borne by its stockholders.

Tax Claim—We have been instructed to ignore the Christiana Federal tax claim on the assumption that it will eventually be distributed to Christiana stockholders. Therefore we have not considered this asset in forming our recommendations and make no representations as to this aspect of the transaction.

Merger Expenses—We believe that there is adequate inducement to both parties to consummate the merger. We are also inclined to discount the question of initiation in view of the substantial interlocking of directorships. Therefore, we recommend that both parties bear their own expenses and equally share in any joint expenses.

Summary of Asset Valuation

Exhibit 1 presents a calculation of Christiana net assets as they would have been valued on April 28, 1972 in accordance with our recommendations.

Christiana Preferred Stock

Christiana presently has outstanding 106,500 shares of 7% Cumulative Preferred stock, par value $100, liquidating value $100, and redemption price $120, held by 1,543 stockholders of record as of December 31, 1971. This stock was originally issued as a stock dividend to the holders of Christiana common in 1922. Of the original 150,000 share issue, 43,500 shares were held by Delaware Realty and Investment Company, which was merged into Christiana in 1961, whereupon the shares were cancelled. Today, there is a thin over-the-counter market for the stock, and on April 27, 1972, there was a single market maker quoting the issue

at 97 bid, 102 asked. We have been informed that another firm's 1964 study indicates that 85% of the Preferred shareholders have a basis in excess of $120 for this stock.

While there are a variety of methods for treating the Preferred stock, we have been advised that the merger participants prefer an exchange of the 7% Preferred for Du Pont common stock and have confined our opinion to that transaction.

We believe that the two relevant values for the Preferred stock are the liquidating value of $100 and the redemption value of $120 (plus accumulated dividends), since the market value approximates the liquidation value at this time. The 7% Preferred votes pari-passu with the common rather than voting on the proposed merger as a class, and therefore cannot block its accomplishment. Thus there is no support for an argument that the Preferred holders deserve a premium over the aforementioned "intrinsic" values of the security because they can prevent the accomplishment of the merger. On the other hand, we are advised by counsel that the security holders do have dissenters' rights in the merger and that it is unlikely that they would receive less than the liquidating value in a judgment. Thus we conclude that a fair value for the Christiana 7% Preferred Stock in an exchange for Du Pont Common stock lies in a range of $100 to $120 plus any accumulated dividends.

There are several factors which indicate an exchange with the 7% Preferred valued at the lower value. First, the exchange for common stock provides the Preferred holder with a significantly more liquid, listed security. In addition, the Preferred holder is not forced into a taxable transaction upon the merger, but rather may hold the Du Pont common and postpone taxation indefinitely, or sell and be taxed as he may choose. In addition, we are advised by counsel, that there is a substantial risk that, on an

individual basis, some 7% Preferred stockholders, could have a cash payment in redemption treated as ordinary income. Furthermore counsel advise that they are doubtful that an opinion could be secured to give favorable assurances on such treatment. Since Du Pont common stock received by Christiana 7% Preferred shareholders would not constitute "Section 306 stock", subsequent disposition of the Du Pont common stock would result in capital gain or loss to the former holders of the Christiana Preferred, thus favorably resolving the risk of dividend treatment which is present in the case of a cash redemption. In addition to the foregoing, we note that Du Pont Common stock and the 7% Christiana Preferred are essentially identical investment media, should Du Pont cease paying dividends or Du Pont or Christiana liquidate, since the Christiana Preferred would have first call on assets which are essentially Du Pont common stock. The Du Pont common is actually in a somewhat senior position to the Christiana Preferred in that the Christiana Board could suspend Preferred dividend payments although the Du Pont common continued to receive them.

There are other factors which indicate that the Preferred should be valued at the redemption price. Absent this potential merger with Du Pont, the only avenue available to the Christiana common shareholders for dissolution of the Preferred class at $100 per share is liquidation of the company. However, as we have indicated in another section of this report, liquidation would cause the common stockholders to incur an ordinary income tax on the distribution to the extent of Christiana's "accumulated earnings and profit". Since the net present value of incurring this tax is much higher than the $2,130,000 cost of paying the redemption premium to Christiana common stockholders who do not wish to liquidate their holdings, Chris-

tiana clearly would have offered the redemption premium rather than liquidating the company.

The other major factor which indicates that a higher value should be offered is the difference between Du Pont common and the Preferred as long as Du Pont continues to pay dividends. In that event as is shown in Exhibit 5, the Christiana Preferred holder faces a reduction of his 7% current yield to 2.96% in the case of a $100 exchange or 3.57% in the case of a $120 exchange. In addition, provided that Du Pont does not cease to pay dividends, one share of 7% Preferred occupies a more secure position than one share of Du Pont common, since it has first claim of any dividends paid to approximately 130 Du Pont shares. This relationship is such that Du Pont could reduce its dividend to slightly more than 1% of its present level before impacting the Christiana 7% Preferred dividend. The other factor which indicates an exchange at higher value is the "nuisance value" of paying a premium to mitigate interference with the merger from dissenting Preferred shareholder actions. Furthermore, we note that there is a precedent available which supports the redemption price valuation. This exists in the form of the Christiana/Delaware Realty Merger where the 7% Preferred was valued at $120 in calculating the net assets of Delaware and Christiana.

On balance, it is our opinion that the average current holder of Christiana 7% Preferred stock is an income-oriented investor whose objective will not be satisfied by the Du Pont yield at either exchange value. This indicates that many of the former Christiana Preferred stockholders will liquidate the Du Pont stock received in an exchange, and will thus not avail themselves of the advantages of the exchange offer which are largely inherent in holding the Du Pont common security. In any case,

the exchange does represent a change in investment character, both in its yield and prior position. Therefore this exchange has the characteristics of a redemption for cash and we believe that the redemption value should be offered as fair consideration for the Christiana 7% Preferred stock. We believe that there are strong reasons for valuing the common stock of Du Pont at the time of the merger for purposes of the common stock exchange and find no reason for an alternative treatment of the Preferred.

Very truly yours,

KIDDER, PEABODY & CO. INCORPORATED

Exhibit 2

Our report is based, among other things, upon the following assumptions:

(i) that the merger which is being contemplated will be a tax-free reorganization of the "A" type.

(ii) that the holders of Christiana 7% Preferred stock will have rights to appraisal of their stock following the merger, and holders of Christiana common stock will not have such rights,

(iii) that the Wilmington Trust Company stock now held by Christiana Securities Company will be transferred to Du Pont and not sold immediately upon its receipt,

(iv) that there are no restrictions on the sale of the Wilmington Trust Company stock,

(v) that the common stock of the News-Journal Newspaper Company, now wholly-owned by Christiana, will be transferred to Du Pont and sold on an orderly basis,

(vi) that a Federal tax claim relating to an earlier divestiture of General Motors stock by Christiana will not be included as part of the transaction, and any expenses in the prosecution of this claim will be accrued and deducted from funds recovered,

(vii) that the parties have agreed to accept a valuation from an independent newspaper appraiser as to the value of the News-Journal Newspaper Company,

(viii) that there are no accounting issues raised in the proposed merger,

(ix) that a Section 333 "one-month" liquidation is not available to Christiana because of the inability to estimate the Federal tax liability,

(x) that a "GM Share" type plan is no longer available to Christiana,

(xi) that there will not be a registration and subsequent sale of Du Pont stock received in the merger by major Christiana Shareholders,

(xii) that Christiana's merger expenses plus one-half of any shared expenses will amount to $605,000,

(xiii) that Du Pont and Christiana financial statements as of December 31, 1971 and Christiana's net cash position as of May 1, 1972 are representative of current values, and

(xiv) that the proposed acquisition of Berg Electronics, announced by Du Pont on June 20, 1972, which has not been included in our consideration, would not have a material effect on our conclusions.

Exhibit 4

Advantages and Disadvantages

(Assuming Net Asset Value Exchange)

CHRISTIANA

Advantages

1. Realization of underlying asset value (32% premium over market)
2. Elimination of Federal tax on Du Pont dividends
3. Elimination of Christiana operating expenses
4. Realize a more liquid listed holding
5. 59% increase in EPS (largely from accounting treatment)
6. 10% increase in dividends
7. Elimination of potential conflict of interest situation
8. Participate directly in Du Pont management

Disadvantages

1. Loss of 28% "control" block of Du Pont stock
2. 59% dilution of net asset value
3. Minor loss of diversification from newspaper and trust company
4. Increased estate taxes
5. Expenses of merger

DU PONT

Advantages

1. Controlled elimination of 28% "control" block of stock (potential market pressure and/or tender offers)
2. Elimination of affiliate status under the 1940 Act
3. 28% increase in shares available to public for trading
4. Potential increase in earnings on incremental shares
5. Accomplishment of an action apparently in the public interest
6. Elimination of potential conflict of interest situation

Disadvantages

1. Minor decrease in book value
2. Expenses of merger

CHRISTIANA EXHIBIT NO. 3

[Letterhead of]

KIDDER, PEABODY & CO.
INCORPORATED

10 HANOVER SQUARE
NEW YORK, N. Y. 10005

July 17, 1972

The Board of Directors
Christiana Securities Company
3046 Du Pont Building
Wilmington, Delaware 19898

Gentlemen:

You have requested our opinion regarding a proposed merger of Christiana Securities Company ("Christiana") and E. I. du Pont de Nemours & Co., Inc. ("Du Pont"). In assisting you in your evaluation of this transaction we have discussed our views with your representatives on several occasions, participated in a meeting on June 30, 1972 attended by the Special Committee of the Board of Directors of the Du Pont Company and the Special Committee of the Board of Directors of Christiana Securities Company and the other Advisors, and prepared a report dated July 7, 1972 for the Christiana Special Committee in which we recommended an appropriate range of exchange ratios between the common shareholders of both companies and an offer which we considered fair to the holders of Christiana's 7% Preferred Stock.

We understand that on July 17, 1972 you approved a merger of Christiana into Du Pont on the basis of exchanging 1.123 common shares of Du Pont for each

Christiana common share and exchanging $120 in Du Pont common shares valued at the average closing price on the ten trading days preceding the effective date of the merger, plus any accrued dividends paid in cash, for each Christiana 7% Preferred share. We further understand that when the Christiana Federal tax claim has been settled, a second distribution of the proceeds therefrom, less related expenses, will be made to the former Christiana common shareholders.

In connection with this transaction we have considered relevant financial factors such as earnings, dividends and book values; net asset values and market values; advantages and disadvantages to all parties; certain alternative courses of action available to Christiana; certain similar transactions which might be considered as precedents; certain other non-financial factors; and other factors we deem to be relevant.

In connection with our determination of Christiana's net asset value, we have examined and evaluated certain assets and liabilities of Christiana, including its holdings of 13,417,120 shares of Du Pont common stock, 16,256 shares of Du Pont $4.50 Preferred Stock, 69,216 shares of Wilmington Trust Company common stock, all of the outstanding common stock of The News-Journal Company, cash and equivalent assets, current liabilities, potential capital gains tax liabilities, the Federal tax refund claim of Christiana and related expenses, and certain expenses of the merger.

On certain matters we have relied on the advice of counsel and, in the case of The News-Journal Company, we have relied on the opinion of an independent expert.

After consideration of these factors and based upon the terms referred to above, it is our opinion that the foregoing ratios fall within the range recommended by

us and are fair and reasonable to Christiana and its common and preferred shareholders as of the date of this letter.

Very truly yours,

KIDDER, PEABODY & CO. INCORPORATED

CHRISTIANA EXHIBIT NO. 4

CHRISTIANA SECURITIES COMPANY

Federal Income Tax Basis to Present Holders of Christiana Securities Company Common Stock

I. Basis of shares held by individuals, fiduciaries, corporations subject to federal income tax.

Basis [1]	*Source*		*Totals*	
	Wilmington Trust Company [2]	*T. E. House Survey* [3]		
$0	1,402,594	1,537,395	2,939,989	
.01-25.00	2,915,058	194,694	3,109,752	
25.01-50.00	673,646	72,052	745,698	
50.01-100.00	673,769	177,133	850,902	
100.01-150.00	195,526	38,314	233,840	
over 150.00	322,215	28,510	350,275	
Totals	6,182,808	2,048,098	8,230,906	Total number of Shares accounted for on Basis Studies

II. Total number of shares held by or for tax-exempt organizations (See note 1) 1,288,986

III. Total number of shares for which no information available 2,190,211

Notes:

1. Basis figures do not include basis of 622,540 shares held by Wilmington Trust Company for tax-exempt organizations, such as public charities and private foundations. Basis figures also do not include basis of an additional 666,446 shares registered in the name of such organizations.
2. Based on analysis by Wilmington Trust Company of shares held by Wilmington Trust Company as fiduciary or custodian on January 8, 1973. An additional 39,887 shares are held by Wilmington Trust Company for which Wilmington Trust Company has no basis records and an additional 19,688 shares are held in acounts for which Wilmington Trust Company has no responsibility for maintaining basis records.
3. Survey by T. E. House, Treasurer of Christiana Securities Company, based on numbers of shares held on May 22, 1972 by persons surveyed, except that numbers of shares registered in the name of Henry B. du Pont or his Estate have been adjusted for distributions from the Estate to accounts in Wilmington Trust Company and to certain charitable organizations between May 22, 1972 and January 8, 1973.

DIVISION EXHIBIT NO. 1

E. I. DU PONT DE NEMOURS AND COMPANY
CHRISTIANA SECURITIES COMPANY

June 6, 1972

Morgan Stanley & Co.
140 Broadway
New York, New York 10005

Gentlemen:

The Boards of Directors of E. I. du Pont de Nemours and Company and Christiana Securities Company have each designated a Committee to negotiate a proposed merger of Christiana into Du Pont. We request that Morgan Stanley & Co. advise the Committees of each Board with regard to the proposed transaction.

You are requested to render an opinion and accompanying report addressed to both Committees, based upon a financial analysis and evaluation and taking into consideration all material factors you believe to be relevant to assist the Committees in their negotiations. Your report should set forth a range of ratios of exchange of Christiana Common Stock for Du Pont Common Stock and recommendations as to terms of exchange of Christiana Preferred Stock which you consider fair and reasonable to both Du Pont and Christiana and the shareholders of each such company. The merger will be subject to the approval of the Securities and Exchange Commission under the provisions of Section 17 of the Investment Company Act of 1940, which provides that as a prerequisite to approval, the Commission must determine, among other things, that the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person concerned.

We understand that you will undertake the study necessary to prepare such report and formulate such opinion immediately with a view to furnishing such material by June 20, 1972 if practicable. If you are willing to accept this assignment, please sign the two copies hereof and return one of the same to each of the companies.

Very truly yours,

SPECIAL COMMITTEES OF THE BOARD OF DIRECTORS OF:

E. I. DU PONT DE NEMOURS AND COMPANY
/s/ C. B. McCOY
C. B. McCoy
/s/ I. S. SHAPIRO
I. S. Shapiro

CHRISTIANA SECURITIES COMPANY
/s/ EDWARD B. DU PONT
Edward B. du Pont
/s/ A. FELIX DU PONT, JR.
A. Felix du Pont, Jr.

The foregoing assignment
is hereby accepted.

MORGAN STANLEY & CO.
/s/ MORGAN STANLEY & CO.

APPENDIX A

ATTACHMENT 2

June 6, 1972

FACTORS TO BE CONSIDERED IN REPORT OF INVESTMENT BANKERS

The purpose of this memorandum is to set forth the factors which should be considered in the report of investment bankers requested by a special Committee of the Board of Directors of E. I. du Pont de Nemours and Company designated to negotiate a merger with Christiana Securities Company. This memorandum is based upon a review of the pertinent Securities and Exchange Commission decisions under Section 17(a) of the Investment Company Act of 1940. In general, the Commission examines proposed transactions in the light of all relevant financial considerations. In passing on merger terms affecting common stock, the Commission has looked to such factors as comparative earnings, dividends, market values and net asset values (including adjustments for potential taxes arising from unrealized capital gains in portfolio securities and the tax benefits resulting from tax loss carryforwards). No single factor has been considered determinative. In dealing with merger terms for preferred stock, the Commission has taken into account dividend and redemption terms, asset values, asset value coverage and dividend coverage.

The investment bankers' report to the du Pont negotiating committee should consider the pertinent financial factors and discuss the reasons why particular factors should, or should not, be given any particular weight in the negotiations.

There follows a brief summary of pertinent factors affecting the merger terms for Christiana Common Stock.

The terms of treatment of the Christiana Preferred Stock appear to present no unique problems from the financial point of view.

Earnings and Dividends. Since substantially all of Christiana's income consists of dividends on du Pont stock, comparative earnings would not appear to be an important factor. Christiana has followed the policy of distributing to its shareholders substantially all of its income after Federal income taxes. The principal factor affecting Christiana earnings is the corporate income tax at an effective rate of approximately 7.2 percent. Consideration should be given to the value to Christiana shareholders of the elimination of this tax.

Market Values. Christiana's Common Stock has sold at a substantial discount from the net asset value (on a market price basis) of the underlying du Pont Common Stock. This discount has in recent years been in excess of 20 percent. Subsequent to the announcement of the proposal to study a merger, the discount has narrowed somewhat. The investment bankers' report should consider all pertinent factors explaining the existence of this market discount.

From du Pont's point of view, the most favorable terms of a merger would be those that approach the full amount of the discount. However, in the *Delaware Realty* case, the SEC accepted, as a basis for merger terms, values based on underlying net asset values. The rationale for this was that the parties to the merger had alternative means of recognizing net asset value without significant tax effect.[1] We understand that Christiana would be prepared to take the same position here: Under the 30-day liquidation provisions of Section 333 of the Internal Revenue

1. Other similar cases considered by the SEC have involved little or no discount, but have not expressed a specific rationale for this approach.

Code, Christiana presumably could achieve with relatively limited taxation a liquidation in which its du Pont securities would be distributed directly to its shareholders. Counsel to Christiana is preparing a memorandum describing the application of Section 333 to a dissolution of Christiana.

The report should indicate whether, on the assumption that the 30-day liquidation provisions would operate to Christiana's benefit here, du Pont would be justified in giving little weight to the market value of Christiana in the merger negotiations.

The Delaware Supreme Court has held that under the Delaware appraisal law the shareholders of a closed-end investment company whose stock has sold at a discount from net asset value are entitled only to the net asset value less the market discount. The investment bankers' report should indicate whether this factor should be given any weight in the merger negotiations.

The distribution of du Pont stock to the shareholders of Christiana may provide an incentive for such shareholders to dispose of their holdings. While affiliates of Christiana may be restricted in the amount and method of disposition of du Pont stock, a substantial portion of such stock will be freely marketable. Christiana is also considering whether its affiliates may seek registration rights for an underwritten public offering following the merger. The possibility that these factors may have a depressant effect on the market price of du Pont Common Stock should be considered.

Net Asset Value. The SEC has held asset values relevant in valuing investment companies, but has not given any appreciable weight in valuing industrial concerns.

The investment bankers' report should indicate whether from du Pont's point of view any arguments can

be made that Christiana's du Pont stock holdings should be valued at less than market and should also indicate the grounds for rejecting any possible assertion by Christiana that the stock should be valued at more than market.

While a discount for potential tax on unrealized capital gains is often appropriate, that factor does not appear relevant to the du Pont stock held by Christiana inasmuch as the stock would, under the present approach, be immediately cancelled.

Christiana has suggested that it may assert that its holdings of du Pont stock are entitled to a premium in the merger on the basis that they constitute a controlling block. The investment bankers report should consider from the financial point of view whether this claim has any merit. For example, the likelihood that any third party would be willing, as well as legally and financially able, to purchase control of du Pont should be considered. If the investment bankers consider it desirable, we would be prepared to advise on the antitrust aspects of such a disposition, as well as on the likelihood of the SEC accepting any merger terms based on a control block premium.

Christiana holds approximately 3 percent of the outstanding common stock of Wilmington Trust Company. On the assumption that this is transferred in the merger and that du Pont is anxious to dispose of it as promptly as possible, pertinent factors such as blockage and effect of unrealized capital gains should be considered.

Christiana also holds all the outstanding stock of the Wilmington News-Journal. The valuation of this asset will be undertaken by a single financial expert, whose report would be made available to du Pont's bankers. Du Pont intends to dispose of the newspaper as promptly as practicable. The report should consider the feasibility of using a certificate of contingent interest in the merger, with Christiana shareholders to receive du Pont shares

(valued on the basis used in the merger) equivalent to the net after-tax proceeds of sale by du Pont.

Christiana has a tax claim against the Government for a refund of approximately $21 million plus interest. Dewey, Ballantine, counsel to Christiana in the litigation, has been asked to prepare a memorandum setting forth their views on the ultimate amount recoverable. In addition, Christiana may seek to enter into settlement negotiations with the Government prior to the merger. Consideration should be given to handling the tax claim by a certificate of contingent interest.

Covington & Burling

APPENDIX A

ATTACHMENT 3

EFFECT OF COMPLIANCE WITH INVESTMENT COMPANY ACT OF 1940 ON DU PONT

Attached is a summary of 1940 Act applications filed by Du Pont since 1967 which illustrates the administrative efforts required by Du Pont to comply with the requirements of the Act. Although not entirely apparent from this summary, there have been several instances where the need to obtain a 1940 Act exemption has resulted in certain internal difficulties. For example, on 5 occasions in the past 5 years Du Pont has requested exemptions for transactions involving grants of exclusive licenses, and although no business delays resulted, problems were encountered in structuring the transactions so as to comply with the requirements of the Act, pending the receipt of an exemption order.

Sufficient detail is not available to determine the time spent by Du Pont employees on specific 1940 Act exemption requests. However, based on total time spent on 1940 Act matters over the past 5 years, it is estimated that, on average, such work required the equivalent of 1½-2 employees on a full-time basis.

Treasury Division

6/13/72

1940 ACT APPLICATIONS FILED BY DU PONT WITH THE SECURITIES AND EXCHANGE COMMISSION 1967-1972

Description of Transaction for which Exemption Requested	*Date Application and Amendments Filed*	*Date of Order*	*Comments*
1. Du Pont purchase of real property from Wilmington Trust Company. The subject property was located adjacent to Du Pont's home office buildings in Wilmington, Delaware; Du Pont's interest in acquiring subject property was to protect its substantial investment in its home office buildings. Wilmington Trust Company was deemed to be an affiliate of Christiana, and in turn Du Pont, by virtue of its 45% holdings in Christiana common stock (as trustee or nominee).	12-19-66 3-21-67	5-19-67	None
2. Loans to Du Pont employees. Exemption was obtained in 1953 whereby Du Pont could loan funds to its employees for acquiring residential property or for emergency purposes, under certain dollar limitations. The purpose of this subsequent request was to raise the dollar limitations, which Du Pont believed had become unduly restrictive under 1968 conditions.	12-19-68 4-22-69	4-10-70	The delay (16 months) in obtaining this exemption order caused some internal difficulties—e.g., some transferred employees probably faced cash shortage problem thus creating dissatisfaction; some employees probably were not transferred (or at least were delayed) because of restrictive limit on the amount of cash they could borrow from Du Pont; some employees may not have accepted transfers because they were unable to finance housing similar to what they had been accustomed.
3. Du Pont assignment of certain patent applications and a patent to one of its employees, Frederic A. Lang. Lang, who was actively involved in the invention of the subject of these patents (which relate to the design and use of tendons and anchoring systems for post-tensioning concrete), wished to devote his full time to the exploitation of these patents; Du Pont was willing to sell the rights since considerable expense and risk would have had to be incurred to develop a related profitable business.	2-11-69 7-25-69	7-31-69	None
4. Du Pont proposed sale of 27,750 shares of common stock of Ocean Science and Engineering, Inc. (OSE) to Willard N. Bascom, President of OSE and accordingly an affiliate of an affiliate of Christiana. In June 1969, Bascom requested that Du Pont permit him to assign his purchase rights on a joint and several basis to Allstate Insurance Co. and Barcus, Kindred	3-21-69	Withdrawn 8-4-69	None

Description of Transaction for which Exemption Requested	*Date Application and Amendments Filed*	*Date of Order*	*Comments*
& Company. Du Pont agreed to sell its OSE interest to these two nonaffiliated companies and accordingly withdrew the 1940 Act exemption request.			
5. Du Pont sale of 55,252 shares of Cryogenic Engineering Company common stock as part of an underwritten public offering by Cryogenic. Cryogenic, as well as a number of its other shareholders, participated in the offering.	7-25-69 11-26-69	12-1-69	Du Pont's participation in this public offering was contingent upon receiving the 1940 Act exemption order prior to the effective date of the offering. The effective date for the Cryogenic offering was delayed primarily because of stock market considerations which also provided time to obtain the exemption order.
6. Du Pont sale of 2,100 shares of Wheaton Plastics Company common stock to Wheaton Glass Company, a company under common control with Wheaton Plastics by Wheaton family interests—thus, an affiliate of an affiliate of Christiana.	10-31-69 3-11-70	4-2-70	None
7. Du Pont purchase of land from an employee, James F. Skeeler. The subject land was located near Du Pont's Sabine River Works Plant, Orange, Texas, and was improved by a golf course which was constructed by a Du Pont association	Notice 7-21-70	N.A.	None

Description of Transaction for which Exemption Requested	*Date Application and Amendments Filed*	*Date of Order*	*Comments*
for use by Du Pont employees. An SEC exemption order had previously been obtained permitting such purchases as long as the SEC was provided advance notice.			
8. Du Pont grant of an exclusive license to Block Engineering, Inc., an affiliate of Du Pont by virtue of Du Pont's 33% interest in Block common stock. This grant of an exclusive license under a U. S. patent application allowed Block to make and sell an improved sensor head for pressure sensing devices.	9-11-70 12-16-70 4-8-71	5-25-71	No business delay was incurred since the license was granted to Block on a nonexclusive basis until such time as the exemption order was received.
9. Du Pont grant of an exclusive license to Digilab, Inc., a wholly-owned subsidiary of Block and thus an affiliate of Du Pont. This grant of an exclusive license under a U. S. patent allowed Digilab to produce and sell optical thickness gauges.	9-11-70 12-16-70 4-8-71	4-16-71	No business delay was incurred since the license was granted to Digilab on a nonexclusive basis until such time as the exemption order was received.
10. Awards of stock options under Du Pont's Bonus Plan "C". Du Pont requested exemption whereby certain Du Pont employees, who were also affiliated persons of Christiana Securities Co., could (1) exercise	10-30-70 2-3-71 2-10-71 6-23-71	1-27-72	After considerable discussions with the SEC, an exemption order was finally granted nearly 15 months after filing of the original application. The final order of exemption was significantly more restrictive than the exemption

Description of Transaction for which Exemption Requested	Date Application and Amendments Filed	Date of Order	Comments
stock options previously awarded under Bonus Plan "C" and (2) receive and exercise stock options granted in the future under Bonus Plan "C".			requested by Du Pont—i.e., subject Du Pont employees were allowed to exercise stock options received prior to 8-10-70, but were not permitted to receive future options under Bonus Plan "C".
11. Du Pont grant of an exclusive license to Showa Neoprene K. K., a 50%-owned Japanese subsidiary of Du Pont. This grant of an exclusive license provided Showa with certain technical information and patents covering a process for converting butadiene to chloroprene.	12-16-70 4-8-71	5-17-71	No business delay was incurred since the license was granted to Showa on a nonexclusive basis until such time as the exemption order was received.
12. Du Pont grant of an exclusive license to Policron de Mexico, S. A., a 49%-owned Mexican subsidiary of Du Pont. This grant of an exclusive license provided Policron with technical information and patent rights related to the manufacture of polyester fiber.	8-23-71	1-7-72	No business delay was incurred since the license was granted to Policron on a nonexclusive basis until such time as the exemption order was received.
13. Du Pont of Canada participation in joint mining ventures with certain affiliated Mexican and Canadian companies. The subject application requested exemption so that	8-24-71 12-14-71	12-29-71	Extensive administrative time and effort were required in preparation of this application—since all those companies involved were either Canadian or Mexican, data were not readily ob-

Description of Transaction for which Exemption Requested	Date Application and Amendments Filed	Date of Order	Comments
DOC, a 75%-owned subsidiary of Du Pont, could participate with affiliates in (1) a specific proposed venture principally in Mexico, and (2) future mining ventures.			tainable thus necessitating trips to both Canada and Mexico. In addition due to the delay in obtaining SEC exemption (i.e., original agreement signed in August 1970), certain companies who were to receive cash as a part of the transaction had to obtain interim cash from other sources. Further, DOC personnel were restricted from active participation in the venture until receipt of exemption. The final exemption order also placed significant restrictions and limitations on future mining ventures among the parties involved. These restrictions could quite possibly hinder future transactions since the mining industry usually requires quick decisions—delay involved in seeking exemption might cause a company to lose an opportunity to participate in an attractive venture.
14. Du Pont grant of an exclusive license to Mitsui Fluorochemicals Co., Ltd., a 50%-owned Japanese subsidiary of Du Pont. The subject license provided Mitsui with technical information and patent rights required	10-25-71 2-18-72	3-17-72	No business delay was incurred since the license was granted to Mitsui on a nonexclusive basis until such time as the exemption order was received.

Date Application and Amendments Filed	*Description of Transaction for which Exemption Requested*	*Date of Order*	*Comments*
	for the manufacture and sale of certain fluorocarbon plastic materials.	N. A.	None.
Notice 5-23-72	15. Du Pont sale of residential property to an employee, Marvin B. Parks, Jr. The subject property was located in Seaford, Delaware, and was improved by a home previously used as a residence of Du Pont plant managers at its Seaford plant. An SEC exemption order had previously been obtained permitting such sales as long as the SEC was provided advance notice.		

Treasury Division
June 13, 1972

DIVISION EXHIBIT NO. 2A

[Letterhead of]

DECHERT PRICE & RHOADS
1600 Three Penn Center
Philadelphia, Pa. 19102
(215) LOcust 8-1600

June 20, 1972

Mr. A. Felix du Pont, Jr.
Mr. Edward B. du Pont
Special Committee of
The Board of Directors
Christiana Securities Company
3046 Du Pont Building
Wilmington, Delaware 19898

Re: *Section 333 Liquidation*

In your capacity as members of the Special Committee of the Board of Directors of Christiana Securities Company to explore the feasibility of a possible merger of Christiana into the Du Pont Company, you have requested our advice as to the feasibility of a liquidation of Christiana under § 333 of the Internal Revenue Code, and specifically as to the tax costs which might be incurred by Christiana and its shareholders in effecting such a liquidation.

Statement of Facts

Christiana's assets presently include 13,417,120 shares of the common stock of Du Pont, 16,256 shares of the $4.50 cumulative preferred stock of Du Pont, constituting, respectively, 28.38% of the outstanding common stock and 0.962% of the outstanding $4.50 cumulative preferred stock; 7,460 shares, or 100% of the outstanding capital stock, of

The News-Journal Company ("News-Journal"); 69,216 shares (approximately 3.45%) of the common stock of Wilmington Trust Company; a suit for refund for federal income tax plus interest for the years 1962, 1964 and 1965, in the total amount of approximately $21 million; and cash and cash equivalents which, as of May 1, 1972, net of current liabilities, were $5,238,875.

We understand that Christiana has not purchased any of the stock of Du Pont, Wilmington Trust Company or the News-Journal which it presently holds since December 31, 1953. Christiana's only increases in its holdings of stock since that date have been as follows:

(1) Christiana acquired 16,256 shares of Du Pont $4.50 cumulative preferred stock and 1,217,920 shares of Du Pont common stock in the merger of Delaware Realty and Investment Company into Christiana in 1961. All of these shares were acquired by Delaware Realty and Investment Company prior to January 1, 1954.

(2) Wilmington Trust Company effected a 20% stock dividend in 1954, a four-for-one stock split in 1959, and a 100% stock dividend in 1966. We understand that the split and the stock dividends in each instance were non-taxable.

The only purchase of stock or securities (other than short-term debt obligations) by Christiana since December 31, 1953 was the purchase of shares of General Motors Corporation common stock pursuant to a 1955 rights offering. None of these shares are now held by Christiana.

The presently outstanding stock of Christiana consists of 106,500 shares of 7% cumulative non-voting preferred stock, which were held by 1,543 shareholders of record as of December 31, 1971, and of 11,710,000 shares of outstanding common stock, par value $1.25 per share, which were held by 6,815 shareholders of record as of December 31, 1971.

Haskins & Sells is in the process of making an earnings and profits study of Christiana. Subject to their confirmation of the initial capital of Delaware Realty and Investment Company and of the amount of the reduction of Christiana's capital caused by the redemption of certain shares of Christiana's common stock, and of the issuance of their final report, we understand that they have concluded that Christiana's earnings and profits, as of December 31, 1971, were approximately $85,800,000.

The federal income tax bases and estimated fair market values as at May 1, 1972 of Christiana's principal assets are as follows:

		Value at May 1, 1972	
No. of Shares	*Company*	*Carrying Value*	*Market Value*
13,417,120	Du Pont, Common	$74,621,915	$2,222,210,500*
16,256	Du Pont, $4.50 Pfd.	1,298,056	1,095,248*
69,216	Wilmington Trust, Common	903,592	2,837,856**
7,460	News-Journal, Common	846,107	***
	Total	$77,669,670	$2,226,143,604

* Based on NYSE closing prices—but this may not be the realizable value of such a large block of stock.

** Based on closing bid price in local OTC market—but this may not be the realizable value of such a large block of stock.

*** There is no market quotation available. The News-Journal Company's accounts at December 31, 1971 show net assets of that company of approximately $6,800,000.

Based upon an offer of settlement of the federal tax refund litigation made by Christiana, the value of the refund claim is $7,130,000 plus interest, less presumably the federal income tax payable with respect to such interest.

A preliminary analysis of the shareholders of Christiana indicates that of the 11,710,000 shares of outstanding common stock, 11,186,525, or 95.53%, are held by holders of 1,000 or more shares each.

It is understood that Christiana has a substantial number of individual and other non-corporate shareholders in Pennsylvania as well as, of course, Delaware.

DISCUSSION

I. *Requisites of Liquidating Corporation.*

Christiana is a domestic corporation and is not a collapsible corporation to which § 341(a) of the Internal Revenue Code applies. Therefore, Christiana is eligible for a § 333 liquidation.

II. *Eligibility of Shareholders.*

The benefits of § 333 are available only to "qualified electing shareholders." In order to become a "qualified electing shareholder," a shareholder must file a written election on Treasury Form 964 with the appropriate Internal Revenue Service official. In order to make the election of any non-corporate shareholder valid similar elections must be filed by the holders of at least 80% of the total number of shares of common stock of Christiana held by non-corporate shareholders. Similarly, in order to make the election of any corporate shareholder valid, the holders of at least 80% of the total number of shares of Christiana common stock held by corporate shareholders must file elections on Form 964.

The Forms 964 must be filed within 30 days after adoption by Christiana of a plan of liquidation. In Christiana's case it would be necessary to devise some procedure whereby the shareholders, at the time they were asked to vote on or to give proxies to vote on the plan of liquidation, would also commit themselves to the filing of Form 964. This would be necessary because most shareholders would not want to vote favorably on the plan of liquidation unless they were assured that the holders of at least 80% of the stock in their group would also vote favorably on the plan.

In our opinion these procedural requirements could be satisfied by having the Christiana shareholders give powers of attorney to an appropriate person, such as Wilmington Trust Company, to execute Forms 964 on their behalf, conditioned upon the adoption of the plan of liquidation by the requisite percentage of the other shareholders of the same class. It may be noted that the Instructions for Form 964 (a copy of which is attached) contemplate that powers of attorney may be utilized. Thus, if the requisite percentage of shareholders of each class approved the liquidation and granted the powers of attorney, the plan of liquidation would become effective and the Agent would file elections on behalf of all qualified electing shareholders within 30 days after adoption of the plan of liquidation.

We have considered the question whether a power of attorney given by a shareholder might lapse if the shareholder died, became incapacitated or became bankrupt prior to the exercise of the power. Since over 95% of the common stock of Christiana is held by a relatively small number of record holders of 1,000 or more shares, it should be feasible, immediately prior to the exercise by the Agent of the authority to file Forms 964, to ascertain that a sufficient percentage of the holders of stock of each class had not died, become incapacitated or bankrupt. Alternatively, a sufficient percentage of the shareholders of each class could be asked to execute Forms 964 directly.

III. *Effecting the Distribution Within One Calendar Month.*

Section 333 requires that all of the assets of the liquidating corporation be distributed to the shareholders in complete liquidation within some one calendar month. However, this need not necessarily be done within the

calendar month in which the plan of liquidation is adopted. Furthermore, Christiana would be permitted to retain cash or other liquid assets reasonably estimated to be necessary to provide for contingent or unascertainable liabilities and for any further expenses of its liquidation and dissolution, and if any amount remained after payment of all such liabilities Christiana could later distribute the remainder without violating the one-month rule. *Rev. Rul. 56-286,* 1956-1 C. B. 1972.

The principal assets of Christiana consist of its stock of the Du Pont Company, of Wilmington Trust Company, and of the News-Journal, and the federal income tax refund suit. Distribution of the first three of these to the shareholders within one calendar month could be effected by the transfer of all such stock to an exchange agent acting for the shareholders pursuant to the plan of liquidation. As long as delivery to the exchange agent were made within a single calendar month, it would not be necessary for the exchange agent to complete the physical exchange of certificates for shares of stock of the Du Pont Company, of Wilmington Trust Company, or of News-Journal for Christiana certificates within the calendar month. The exchange agent could also issue non-transferable order forms, or similar documents, to the Christiana shareholders by which the shareholders could authorize the exchange agent to buy or sell fractional share interests in the stock of Du Pont, Wilmington Trust Company or News-Journal* which undoubtedly would result from the liquidation. Similar procedures were approved by the Internal Revenue Service in *Rev. Rul. 56-286,* ante.

In the event that it was impossible to locate a Christiana shareholder at the time of the liquidation, his share

* If desirable, there could be a preliminary split of the stock of News-Journal to facilitate the liquidation.

of the property distributed could be transferred to a trustee for his benefit. *Rev. Rul. 57-140,* 1957-1 C. B. 118.

Distribution of the tax refund claim could be effected by the distribution of beneficial ownership of the claim within the calendar month of the liquidation to a trustee for the benefit of Christiana's shareholders. The trustee could then proceed to prosecute or settle the cash and distribute the proceeds of the settlement to Christiana's shareholders. A similar procedure was approved in connection with a § 337 or 12-month liquidation by *Rev. Rul. 63-245,* 1963-2 C. B. 144.

IV. *Amount of Gain Recognized to Shareholders.*

The gain *realized* by a shareholder of a corporation undergoing a § 333 liquidation (i.e., the sum of the money received plus the fair market value of property received, minus his basis) is *recognized* (i.e., taxed) only to the extent of the *larger* of the following: (1) his share of the undistributed earnings and profits of Christiana, computed as of the end of the month in which the liquidation takes place, or (2) the sum of the money plus the fair market value of any stock or securities acquired by Christiana after December 31, 1953 received by such shareholder.

Christiana's earnings and profits must first be allocated between the preferred and the common stockholders, for it is only a shareholder's "ratable share" of the earnings and profits which is taken into account in determining the gain recognized to him. Since the preferred stock of Christiana was issued to the common shareholders in 1922 as a non-taxable stock dividend, in our opinion on the liquidation of Christiana all amounts distributable to the preferred shareholders, less the proper proportion of the amounts originally paid in to Christiana's capital, must be considered as a distribution of earnings and profits. We

understand that the basis of the preferred stock of Christiana, immediately after 1922 distribution, was $24 per share to the original Christiana shareholders. On the assumption that the preferred stock was worth $100 per share at the time, and that the original basis of the common stock was $100 per share, this would indicate that $24 of the amount originally paid into Christiana's capital for one share of common stock should be allocated to the preferred stock. Thus, assuming that there are no accumulated unpaid dividends on the Christiana preferred stock at the time of liquidation, its shareholders would receive a distribution of $100 per share, $76 of which would be considered as a distribution of earnings and profits (a total of $8,094,000), and the remaining $24 of which would be a return of capital.

On the assumption that Christiana's earnings and profits as of the end of the month of the liquidation will be $85.8 million, this would mean that a total of $77.71 million of earnings and profits would be allocable ratably among each of the shares of common stock of Christiana. This works out to be approximately $6.63 of earnings and profits per common share.

As of May 1, 1972, Christiana's stock or securities acquired since December 31, 1953 included certain short-term cash equivalents, certain shares of Wilmington Trust Company acquired incident to stock dividends or splits, and 16,256 shares of Du Pont $4.50 preferred stock and 1,217,920 shares of Du Pont common stock, acquired in 1961 incident to the merger into Christiana of Delaware Realty and Investment Company. In addition, as of May 1, 1972 Christiana had cash which, together with cash equivalents, net of liabilities, amounted to $5,238,875.

All of Christiana's cash and short-term cash equivalents not needed to pay expenses could be distributed to

the preferred shareholders of Christiana. These would not result in any additional potential for recognized gain to the preferred shareholders since the major portion of the amount distributable to them is considered to be a distribution of earnings and profits.

Additional shares of Wilmington Trust Company received after December 31, 1953 incident to stock dividends or splits are not considered to be acquired after December 31, 1953 for purposes of § 333, since the additional shares are traceable to stock of Wilmington Trust Company actually owned by Christiana on that date. *Rev. Rul.* 58-92, 1958-1 C. B. 174.

It is unclear whether the Du Pont $4.50 preferred stock and common stock acquired by Christiana in 1961 incident to the Delaware Realty merger must be considered as having been acquired on that date for purposes of § 333. That stock was actually acquired by Delaware Realty prior to January 1, 1954, and we know of no reason why Delaware Realty itself would not have been eligible for a § 333 liquidation. In *Rev. Rul. 64-257*, 1964-2 C. B. 191, it was held that stock acquired in a similar transaction could not be considered as having been acquired on the date that the corporate predecessor acquired it. However, the reasoning of the Ruling was that the predecessor was a foreign corporation, and since a foreign corporation is not eligible to liquidate under § 333, "tacking" of the holding period of the foreign corporation was not permissible. Similar reasoning appears to underlie *Rev. Rul. 58-92*, where it was held that stock acquired by a corporation in 1955 incident to a tax-free transfer to it from an individual under § 351 of the Internal Revenue Code could not be considered as having been acquired prior to January 1, 1954, even though it was actually acquired by the individual prior to that date.

Based upon the reasoning of *Rev. Rul. 64-257* and upon the eligibility of Delaware Realty for a § 333 liquidation, we believe that the proper conclusion is that the Du Pont preferred and common stock received on the merger of Delaware Realty must be considered as having been acquired before January 1, 1954. We must point out, however, that the Internal Revenue Service's position may very well be to the contrary, and in that event the shareholders would have to be advised in connection with the liquidation that the treatment of this Du Pont stock might be contested and that litigation might result. While we believe that the chances of success in any such litigation would be materially better than 50%, nevertheless no firm assurance could be given that the shareholders would prevail.

The total value of the Du Pont $4.50 preferred stock and common stock acquired by Christiana from Delaware Realty, based upon market prices on June 15, 1972, plus Christiana's net cash as of May 1, 1972 of $5,238,875, is $212,652,662. Since the preferred shareholders of Christiana would be treated as having received a distribution out of earnings and profits in the amount of $76 per share, and since we understand that no holder of Christiana preferred has a basis of less than $24 per share, the preferred shareholders could receive Du Pont preferred and common stock acquired from Delaware Realty without adversely affecting their tax treatment of the liquidation. Assuming that Christiana's net cash as of May 1, 1972, plus Du Pont stock acquired from Delaware Realty, is distributed to the preferred shareholders, the total value of the Du Pont preferred and common stock received from Delaware Realty remaining for distribution to the common shareholders of Christiana would be computed as follows:

16,256 shares Du Pont $4.50 preferred stock at 71.3125	$ 1,159,256
1,217,290 shares Du Pont common stock at 169.4375	206,254,531
Net Cash as of 5/1/72	5,238,875
	$212,652,662
Less amount distributed to Christiana preferred shareholders (106,500 shares at $100)	10,650,000
	$202,002,662
	OR $17.25 per share

V. *Estimated Federal Income Tax Cost to Christiana Shareholders of Section 333 Liquidation.*

A. *Tax Cost to Preferred Shareholders*

1. *Assumptions*

a. 85% of preferred stock held at basis of $120 to $140 per share (source: Morgan Stanley & Co., study of 1964)

b. Remaining 15% of preferred stock held by taxable non-corporate shareholders at basis of $24 per share

c. Preferred shareholders receive distribution with total value of $100 per share, per terms of Christiana certificate of incorporation

d. Preferred shareholders receive distribution of cash plus DuPont stock acquired from Delaware Realty & Investment Company

2. *Calculations*
   a. Holders of 85% (90,525 shares) of preferred at basis of $120-140
      Tax cost ..... —0—
      (loss)
   b. Holders of 15% (15,975 shares) of preferred stock at basis of $24
      Tax cost
      (1) Dividend of $76 per share
      (2) Assume average tax rate is 50%
      (3) Calculation
      15,975 × $76 × .50 ..... $607,050

B. *Tax Cost to Common Shareholders*
   1. *Assumptions*
      a. 375,640 shares held by heirs of Irénée duPont at basis higher than value of distribution
      b. 81,600 shares held by heirs of H. F. duPont at basis higher than value of distribution
      c. Character of holders of common (see attached exhibits)
         (1) Taxable non-corporate holders 9,954,550 shares
         (2) Taxable corporate holders 280,783 shares
         (3) Exempt holders 1,474,667 shares
   2. *Basic Tax Cost*—assuming DuPont stock acquired from Delaware Realty & Investment Co. is not "acquired after December 31, 1953"
      a. Non-corporate taxable holders
         (1) 458,240 shares held by heirs of Irénée duPont and heirs of H. F. duPont
            Tax cost ..... —0—

      b. 9,496,310 shares held by other non-corporate taxable holders
         (1) Dividend of $6.64 per share
         (2) Assumed average tax rate is 60%
         (3) Calculation
         9,496,310 × $6.64 × .60
            Tax cost $37,833,299
      c. 280,783 shares held by taxable corporate holders
         (1) Capital gain of $6.64 per share
         (2) Assumed average tax rate is 30%
         (3) Calculation
         280,783 × $6.64 × .30
            Tax cost $559,320

C. *Summary—Basic Tax Cost*

1. Preferred stock	$ 607,050	
2. Common stock—non-corporate holders ..	37,833,299	
3. Common stock—corporate holders ..	559,320	
4. Total		$38,999,669

D. *Additional Tax Cost if DuPont Stock Acquired from Delaware Realty & Investment Co. is deemed "Acquired After December 31, 1953"*
   1. Preferred stock ..... —0—
   2. Taxable non-corporate holders
      a. Heirs of Irénée duPont and H. F. duPont ..... —0—

b. 9,496,310 shares held by other taxable non-corporate holders

(1) Gain recognized—$17.25 per share

(2) Capital gain ($17.25 less $6.64) per share—$10.61

(3) Assumed average tax rate is 30%

(4) Computation

9,496,310 × $10.61 × .30	$30,226,755

c. 280,783 shares held by taxable corporate holders

(1) Gain recognized—$17.25 per share

(2) Additional capital gain ($17.25 less $6.64) per share—$10.61

(3) Assumed average tax rate is 30%

(4) Computation

280,783 × $10.61 × .30	$893,732

(5) Summary—additional tax cost

(a) Non-corporate taxable holders	$30,226,755	
(b) Corporate taxable		$38,999,669
holders	893,732	$31,120,487

(6) *Total tax cost*—assuming DuPont stock acquired from Delaware Realty & Investment Co. "acquired after 12/31/53" 11.7 — $70,120,156

Notes—Factors not considered

1. State tax cost.
2. "Tax preference" tax cost.
3. Analysis of holders of preferred stock to take into account changes in facts since 1964 re 15% held at $24 per share basis, *e.g.*, deaths, transfers to charities, etc.
4. Wilmington Trust Co. accounts—full analysis of fiduciary accounts for other charitable and corporate beneficial owners.
5. Analysis of nominee holdings of other than Lack & Lindsay and Mertz & Moyer (Wilmington Trust Co.) and obviously charitable nominees noted on exhibits.
6. Analysis of "administrator" holdings for possible other charitable beneficial owners.
7. Analysis of shares held by owners of fewer than 1,000 common shares (all assumed taxable, non-corporate).
8. Analysis of shares traded since 1964, included in estates (other than Irénée duPont and H. F. duPont) to determine total shares of common held with high basis.
9. Analysis of tax brackets of non-corporate taxable holders.

Thus, it is our best judgment, based on the information available to us, that the approximate federal income tax cost to Christiana's shareholders of a liquidation of Christiana under § 333 would be $39.0 million. In the event that the DuPont stock acquired by Christiana upon the merger of Delaware Realty and Investment Company into Christiana in 1961 must be considered as

having been "acquired" by Christiana in 1961 for the purpose of computing the gain recognizable to Christiana's shareholders under § 333, we estimate that the approximate federal income tax cost of the liquidation to Christiana's shareholders would be $70.1 million.

Very truly yours,

DIVISION EXHIBIT NO. 2B

[Letterhead of]

DECHERT PRICE & RHOADS
1600 Three Penn Center
Philadelphia, Pa. 19102
(215) LOcust 8-1600

July 8, 1972

Mr. Charles C. Townsend, Jr.
Morgan Stanley & Co. Incorporated
140 Broadway
New York, NY 10005

Re: Christiana Securities Company

Dear Mr. Townsend:

Enclosed is a copy of the letter dated July 5, 1972 from Dechert Price & Rhoads to the Special Committee of the Christiana Board of Directors with respect to Section 333 liquidation.

Very truly yours,

/s/ GEORGE W. PATRICK
George W. Patrick

GWP:erk
Enclosure

[Letterhead of]

DECHERT PRICE & RHOADS
1600 Three Penn Center
Philadelphia, Pa. 19102
(215) LOcust 8-1600

July 5, 1972

Mr. A. Felix du Pont, Jr.
Mr. Edward B. du Pont
Special Committee of
The Board of Directors
Christiana Securities Company
3046 DuPont Building
Wilmington, Delaware 19898

Re: *Section 333 Liquidation*

Dear Messrs. du Pont:

This letter will supplement our letter of June 20, 1972 on the above subject.

In our letter of June 20th we expressed our views concerning the feasibility of a liquidation of Christiana Securities Company under § 333 of the Internal Revenue Code, and also set forth the estimated Federal income tax cost of a § 333 liquidation to the Christiana shareholders. That estimated tax cost was based upon a number of assumptions, including the assumption that Christiana's earnings and profits were approximately $85.8 million. The estimated earnings and profits of $85.8 million was a tentative figure supplied to us by Haskins & Sells, whom we had requested to make an earnings and profits study. It may also be noted that we had been informed on April 30th that the Treasurer's Department of the Du Pont Company had made an earnings

and profits study of Christiana and that Christiana's earnings and profits were approximately $96 million. That figure is also contained in a memorandum of May 12, 1972 from the Treasurer's Department to Mr. C. E. Welch, Assistant General Counsel for Du Pont, a copy of which was supplied to us.

Since June 20, Haskins & Sells has completed its earnings and profits study, and a representative of Haskins & Sells, and ourselves, have met twice with representatives of the Du Pont Company and its counsel, Covington & Burling, to explain the methods followed by Haskins & Sells in making its study. At these meetings a number of legal questions affecting the computation of earnings and profits were discussed, and it has become apparent that it will not be possible to agree upon an earnings and profits figure for Christiana. Furthermore, if all of the legal questions discussed were resolved against Christiana, the result would be an earnings and profits figure vastly in excess of $85.8 million.

Because the Federal income tax cost of a § 333 liquidation of Christiana cannot be determined at this time, a § 333 liquidation of Christiana cannot be considered as a viable alternative to the proposed merger of Christiana into the Du Pont Company.

Very truly yours,

DIVISION EXHIBIT NO. 3

pp. 9, 21, 22

MORGAN STANLEY & CO.

Other Mergers of Investment Companies into their Operating Affiliates

We have studied data regarding a number of mergers of registered closed-end investment companies or holding companies into their operating company affiliates. Such mergers have occurred frequently in the past. Based on our studies we believe several conclusions may be drawn:

1) Generally, the market values of the investment companies (where a market value existed) were at a discount from the underlying net asset values prior to the merger negotiations. Nevertheless, net asset value rather than market value of the investment company was regarded as the relevant consideration in determining the exchange ratio.

2) In the instances reviewed by us the acquisitions were consummated at exchange ratios which ranged from a premium over net asset value (as defined in the particular case) to a discount of about 1.8% from net asset value of the acquired company. However, many of such acquisitions were consummated at what appears to be net asset value. The merger of Delaware Realty into Christiana in 1961, which is an important precedent, involved a discount of 1.5% from Delaware Realty's net asset value, but, because of the size of Delaware Realty's holdings of Christiana, the effective discount was approximately 1%.

3) In the case of registered investment companies, the Securities and Exchange Commission found, as required pursuant to Section 17 of the Investment Company Act of 1940, that the merger terms were reasonable and fair and did not involve overreaching on the part of any person concerned.

III. Conclusion

In your letter to us of June 6, 1972, you requested that we advise you as to a range of ratios of exchange of Du Pont common stock for Christiana common stock which we consider fair and reasonable to both Du Pont and Christiana stockholders. For purposes of our analysis herein we have considered Christiana's Adjusted Net Asset Value and discounts or premiums in relation thereto. Such views may be converted to definitive share exchange ratios by means of a formula which could be incorporated in the merger agreement.

In light of the foregoing analysis of the proposed merger it appears that Christiana probably would not be justified in accepting a discount, in the form of market value of Du Pont common stock, greater than what would be received in a Section 333 liquidation. On the other hand, it appears that Du Pont, even though it might receive some intangible benefits, probably should not agree to an exchange of shares which would recognize more than Christiana's Adjusted Net Asset Value (no discount) since such a merger would result in a financial loss to its common stockholders.

Based upon the above, values in the range of Adjusted Net Asset Value (no discount) to a discount in the area of 2.84% would appear to represent the widest range within which negotiations should be conducted. How-

ever, we believe that it is desirable to narrow this range and that, in view of the relative advantages of a merger to the two parties Christiana should offer some monetary inducement to Du Pont to merge. In our opinion, therefore, an exchange ratio which recognizes a discount from Christiana's

Adjusted Net Asset Value in the range of 0.5% to 2.0% would be fair and reasonable to both Du Pont and Christiana and the shareholders of each such company and would not represent an overreaching by either party. Assuming that the Christiana preferred stock is redeemed at $120 per share, and based upon a market price of 170¼ for Du Pont common stock as of May 31, 1972, each share of Christiana common stock would receive from 1.14524 shares to 1.12788 shares of Du Pont common stock at such discounts.

Proceeds of tax claim

We also have been asked to recommend a basis for computing the amount of Du Pont common stock to be distributed to Christiana common stockholders of record for purposes of the merger upon receipt by Du Pont of any payment in settlement of the tax claim of $21.0 million. Neither the amount of any recovery nor the time of any such recovery is known at this time. We believe it is desirable that some method of computing the number of Du Pont common shares to be distributed to the Christiana common stockholders should be decided upon which would result in the Christiana common stockholders receiving promptly after any payment of the tax claim to Du Pont, shares of Du Pont common stock with a market value at the time closely approximating the dollar amount of the refund. In other words, any change in the market price of

Du Pont common stock between the record date for the merger and the time of the receipt of any recovery should neither penalize the Christiana common stockholders nor give them a windfall. We also believe that Du Pont should not be placed in the position of distributing at the time Du Pont common stock with a market value either greater or less than the amount of any recovery.

DIVISION EXHIBIT NO. 9

LIST OF DOCUMENTS
FOR FINANCIAL ADVISOR

1. *Du Pont Data*
   - (a) Annual Reports: 1967-71
   - (b) 10-K's: 1967-71
   - (c) Proxy Statements: 1968-72
   - (d) Quarterly Report to Stockholders: 1st quarter 1972
   - (e) 10-Q: 1st quarter 1972
   - (f) Registration Statements filed in 1972:
     - (i) Amendment No. 4 to Form S-8
     - (ii) Amendment No. 2 to Form S-7 (filed on Form S-16)
   - (g) Historical background data:
     - (i) The Organization of the Du Pont Company
     - (ii) The Du Pont Company: A Brief History
   - (h) Final Judgment in U. S. District Court re GM divestiture (3/1/62, as amended 4/26/62)

2. *Christiana Data*
   - (a) Annual Reports: 1967-71
   - (b) N-1R's: 1967-71
   - (c) Proxy Statements: 1968-72
   - (d) Certificate of Incorporation (as last amended 1/16/61)
   - (e) By-Laws (as last amended 8/16/71)
   - (f) Proxy Statement re merger of Christiana and Delaware Realty and Investment Co. (1/24/61)
   - (g) SEC data re Christiana/Delaware Realty merger:
     - (i) 1940 Act application (11/23/60)
     - (ii) Amendment to 1940 Act application (12/16/60)
     - (iii) Notice of Filing (12/19/60)

   - (iv) Opinion and Order (1/13/61)
   - (h) Historical background of Christiana Securities Co.
   - (i) Prospectus for General Motors exchange (1/12/65)
   - (j) Prospectus for Hercules exchange (3/15/67)
   - (k) The News-Journal Company financial statements at 12/31/71
   - (l) Wilmington Trust Company:
     - (i) 1971 Annual Report
     - (ii) 1972 Proxy Statement
     - (iii) Quarterly Report to Stockholders—1st quarter 1972

3. *Other Data*
   - (a) Memo dated 5/12/72 to Assistant General Counsel of Du Pont re "Possible Merger of Christiana with Du Pont"
   - (b) Memorandum re Judicial Precedents for Similar Transactions
     - (i) "SEC and Judicial Precedents Respecting the Proposed Du Pont-Christiana Merger"—6/6/72
     - (ii) "Analysis of Similar Transactions Under the Investment Company Act of 1940"—6/15/72
   - (c) Letters re Section 333 Liquidation
     - (i) "Re: Section 333 Liquidation"—6/20/72
     - (ii) "Re: Section 333 Liquidation"—7/5/72
   - (d) Classification of Holders of Christiana Common Stock
   - (e) Memorandum "Re: Du Pont-Christiana Merger—Appraisal Proceedings Under the Delaware Corporation Law", S 262
   - (f) Letter re Christiana Tax Claim to Mr. S. S. Arsht from Mr. R. D. Williams dated 6/6/72

DIVISION EXHIBIT NO. 10

PROPOSED MERGER OF
CHRISTIANA SECURITIES COMPANY INTO
E. I. DU PONT DE NEMOURS AND COMPANY

Some Prefatory Remarks for
Meeting in New York at FDC on June 23, 1972

1) We are delighted to have this opportunity of reviewing our thinking (and subjecting ourselves to rigorous examination) with respect to an outline of a financial plan for the merger of Christiana into the Du Pont Company.

2) Our view, as developed to date, is that the principal (if not only) advantage of the proposed merger to the Du Pont Company is the prospective termination of the affiliation with Christiana under the Investment Company Act of 1940, and yet

a) since the Du Pont Company has apparently dealt with the related obstructions and inconveniences for 32 years, while successfully conducting its business, and since

b) there appears a likelihood that in any event Christiana in its own interests will disappear (through liquidation, if not merger),

c) we see no apparent reason why the Du Pont Company should (or should be expected to) make any offer to accomplish the merger which would impair or dilute earnings or other values presently accruing to shareholders of the Du Pont Company.

3) With respect to Christiana, it seems to us that that Company i) has lost (or outlived) its *raison d'etre*, ii) has very limited options (particularly since the 1969 Tax Act) for overcoming its inherent handicaps, and iii) will realize quite tangible advantages immediately upon merger into the Du Pont Company on almost any terms that the Du Pont Company might reasonably offer.

4) In light of these considerations it seems significant (but in any case understandable and appropriate) that it has been Christiana which initiated the conversations looking to a merger.

5) Nonetheless, while there is every reason for the Du Pont Company to insist that any merger be without cost to itself, we see no reason why the Du Pont Company should seek advantage from the tax penalties faced by Christiana were it to liquidate rather than merge. Nor do we see any reason why the Du Pont Company, always assuming its interests are properly protected, should adopt a negotiating position so harsh as, in effect, to leave Christiana no alternative but to liquidate.

6) Therefore, we have sought to develop a financial plan that would be without cost to the Du Pont Company and yet offer attractive financial inducements to Christiana shareholders affirmatively to approve a merger. Were a Du Pont offer to be appreciably less attractive than the liquidation alternative available to Christiana, there would be no point in pursuing the negotiations.

7) A further reason for pursuing the negotiations with Christiana, it would seem to us, is that if a merger can be accomplished within the framework outlined above, it will result in a dispersion of the concentrated interest of Christiana in the Du Pont Company. While

we do not see this as an end in itself, it is commonly regarded in roughly similar circumstances as a collateral corporate gain.

8) We should now like to review with you *drafts* of

a) an opinion letter, and

b) a supporting "Study".

We particularly want to go over with you the accuracy and validity of the assumptions we have made, and which are set forth in the "Study". They have a very basic importance for our conclusions and the recommendations we propose to make.

E. T.
6/22/72

DIVISION EXHIBIT NO. 12

pp. 10-11

– 10 –

Net Asset Value—Net Asset Value, as defined in an earlier paragraph, is not a useful concept for measuring the going-concern value of an operating company such as Du Pont for much the same reasons as is the case with its book value. However, in our opinion, it is the relevant measure of value for Christiana in the analysis of this merger. Psychologically, we believe that it is the value the Christiana stockholder perceives himself as holding, although there may be structural impediments which prevent him from realizing it as Christiana is currently constituted. Furthermore, there are at least three alternatives by which Christiana can approximate this value for its shareholders acting on its own. The first alternative is the Section 333 "one-month" liquidation which virtually duplicates the results of this merger for the Christiana shareholder. We are informed by counsel that, given an 80% shareholder election, Christiana could liquidate and distribute its assets to its shareholders who would then be taxed to the extent of their ratable share of Christiana's "accumulated earnings and profits" as defined by the Internal Revenue Code. We have received an opinion indicating that such a tax would be on the order of 1.7% of the average Christiana shareholder's Net Asset Value, and that the required canvassing of shareholders does not pose an insurmountable problem. Somewhat in contrast to the merger, however, this procedure could cause some market pressure on Du Pont stock in a short period of time with consequent market

effects, if Christiana holders liquidated portions of their holdings to meet the tax liability. In our view, the minor disadvantage of this income tax does not indicate a discount in Net Asset Value for the Christiana shareholder since it is well offset by other factors discussed in this report.

The second alternative available to Christiana is to solicit an alternate merger partner in the form of another operating company or another investment company. The business, financial and legal difficulties are admittedly large and the time horizon probably extended. However, the possible interest of an aggressive management in an unrelated industry, a foreign company or other investment companies must bear some weight in the face of numerous examples of successful tenders for large companies by aggressive smaller concerns, instances of foreign control of major American businesses, and mergers of large investment companies.

The third alternative is one whereby Christiana would establish an optional plan for the payment of cash dividends to a trustee in lieu of a stockholder, similar to the plans presently offered by at least two other closed-end investment companies. Acting on behalf of the stockholder (who remains liable for taxes on the dividends), the trustee converts the cash dividend to a stock dividend through purchases on the open market.

MURTAUGH EXHIBIT NO. 2

Excerpts From Testimony on Second Remand From the United States Supreme Court, *United States v. Du Pont*, 177 F. Supp. 1 (N. D. Ill. 1959), as Found in Printed Record in *United States v. Du Pont*, 366 U. S. 316 (1961), pp. 1053-57, 1506-07, 1516-17, 1558-62, 1739, 2095.

DR. IRWIN FRIEND, Wharton School of Finance.

1053

primarily interested in, is what is going to happen to these shareholders whose securities have to be sold, either by judicial fiat or because of tax impact, if our tables showed the difference in market price between the day preceding the public announcement of the offering and the low point within the year after the security was offered rather than take the arbitrary date of two, three and one month before the offering, and compare all this with the final date one year after the offering?

A. I may be misunderstanding your question, but are you implying that a fair basis of assessing the market impact of a new offering would be to go from the day prior to the public offering to the low point in the subsequent year?

Q. The low point after the public offering until it shows that it is recovering from the public offering?

A. You mean disregarding completely the fact that stocks will fluctuate for any number of reasons, and you might as well take the high point as the low point?

[fol. 1019] Q. Oh, no. I think you may properly adjust as against the market during that same period to see whether a market is up or down.

A. But you will take that precise day when the stock is lowest relative to the market? If this is your question, I think it is most unfair and biased. I would think it is

equally biased to go to the high point of that stock relative to the market in a subsequent year. Stocks fluctuate for a variety of reasons.

Q. Do you know what the average period of time after a public offering is before the stock usually has recovered from the impact of the public offering?

A. This varies with the stock. I think normally if you take a period as long as a year to fifteen months, you would have covered this period quite adequately. There may be exceptional cases where this would not be true.

Q. Doctor, isn't it of rather academic interest to the du Pont shareholders who are going to receive the distribution of this General Motors stock and have it sold on the market, whether the stock recovers 15 months from the last day of the month, 15 months from the date or 12 months from the date? Aren't they more interested in where and at what market price their shares are going to be sold?

1054

A. Let me say that I think there is a lot in what you say, but if I understand the inference that you are drawing, I believe this to be completely incorrect.

Actually, if you take a look at the exhibit, you will find that only a small part of the effect on price occurs in the [fol. 1020] period of offering. So that actually the average effect in the month of offering would typically be less—again on the average—than for the period which I took, which I thought was fair—a longer period.

Q. Don't you think that the effect really begins with the day that the public announcement is made that the shares are to be offered?

A. I think——

Q. Following the registration statement of a registered issue?

A. I think there is some effect starting then, yes.

Q. And in most cases, doesn't the period of three weeks to a month intervene between the date the registration statement is filed and the news becomes public, and the date of the public offering?

A. Yes.

Q. And in the average case or in most cases, isn't the impact of a further drop largely confined to a period of one to three or four months following the offering?

A. This I am inclined to disagree with. This I think, is much more variable. Frequently this is true. Frequently you have to go, I think, for as much as a year before you get the full impact.

Q. You will agree, though, Doctor, that it isn't very much comfort to the du Pont shareholders whose shares are going to be sold to find out some few months later that the market is recovering?

A. I agree completely and it is for this reason I broke up the periods the way I did.

Mr. Dallstream: I have no more questions.

Mr. Cowen: Your Honor, I have just one question.

The Court: You may inquire.

[fol. 1021] By Mr. Cowen:

Q. Did I understand you to say, Doctor, that you did not take into consideration how many shares of General Motors, for instance, were traded on the market in pre-

1055

ceding periods of a year, two years, or five years in considering your answers?

I think you said you related it to the total of the outstanding shares of stock, but not as to how many shares were traded on the market, is that correct?

A. Yes, that is correct.

Q. Do you know that there was an average of some 6 or 7 million shares of General Motors stock traded on the market out of the 280 million shares issued?

A. This is on the New York Stock Exchange, yes.

Q. Do you know if you increase that by a third, by taking two million shares, don't you think that would have some effect? Instead of relating it to the 280 million shares, shouldn't you have related it to the amount of shares traded on the market?

A. Let me answer that completely.

First of all, just to get the data more accurate, my best recollection is that 7 million shares represents the average sold on the New York Stock Exchange in recent years.

As I recall, you had another couple of million shares on other exchanges. We don't know how much was sold on the over-the-counter markets, but if you use the normal [fol. 1022] blow-up of about a third, this would be nine and a third, and this would be 12 million shares a year.

Q. I don't know that it is that much.

I understood it was much less, but nevertheless, go ahead.

A. One part of this is a matter of record. The amount sold on exchanges other than New York, I think you will find 2 million is a pretty good figure.

In addition, you do have the over-the-counter area, and I am just using the average number to blow up by—I admit I don't know whether it is larger or smaller—so maybe it is a dimension of 12 million.

Now, I would say it would be relevant to indicate in all of these cases, not only in the General Motors case, what would be the relationship of the increase in stock to the volume of trading.

But I would say also that, in my opinion, it is less relevant than relating it to the outstanding. I mean, the

fact that you have people who do not want to sell stock is presumably relevant to price-making.

Q. At any rate, you did not consider it—the latter, I mean?

1056

A. There are a number of things which it would have been desirable to do in addition to what was done here, and had the Government had the time and resources, I certainly would have recommended at least that they do it.

Q. I assume they have the resources. I don't know about the time.

A. This is not completely clear, I understand.

Q. Would you consider, Doctor Friend, that if the Government's plan went through and some two million [fol. 1023] additional shares were sold on the market by reason of the tax impact, stockholders who are forced to sell, added to the two million which would ordinarily be sold, you now have four million shares of stock, and compared to the stock sold on the New York Stock Exchange you now have a 60 or 70 per cent increase in amount of shares ordinarily traded.

You didn't take that into consideration either.

A. I must confess I don't understand your arithmetic.

Why are you comparing the four million to seven million rather than the 12 million?

Q. Compared to the 12 million then.

It still amounts to an increase of a third, which is quite an increase in any one year, and this is to be continued and repeated over a period of ten years.

You did not, however, consider that in your studies, as I understand it.

A. Those data are not reflected in this particular exhibit.

Mr. Cowen: That is all.

The Court: Any other questions?
Is there any redirect?

Mr. Reycraft: Yes, your Honor.

Redirect examination.

By Mr. Reycraft:

Q. Dr. Friend, in expressing the opinions you have, did you rely solely on this Exhibit 293 for identification?

A. As I think I explained this morning, I was relying on other data as well. The first such body of data was that [fol. 1024] very small scale study which I carried on in early 1948. Then, secondly, just observation of the market generally. I think—let me rephrase that—it is my impression that most analysts have found it rather difficult to find much of an impact in stock price associated with rather moderate increases in outstanding stock.

Q. This exhibit which you asked to have prepared, consists entirely, does it not of situations where there is an imbalance of supply and demand?

A. I am sorry——

Mr. Cox: May we have the question read, please?

(Question read.)

By Mr. Reycraft:

Q. By definition, does it not include that?

A. Yes.

Q. And that is the purpose of it and the relevance of it, is it not?

A. Yes.

Q. Now referring to the General Motors rights offering, which is indicated on this exhibit, and referring to Column 5 and referring to all of the data on this line, are you able to discern any market impact by reason of the volume of stock which came on the market through this offering?

A. Well, let me be repetitious, since it is highly relevant. It is extremely difficult to conclude much from an individual stock experience, but surely these data give no indication of any significant impact of this particular rights offering on the market.

Q. I believe the record shows, but I am not sure that the question is clear on this point which was asked on cross, that this rights offering involved something in the neigh [fol. 1025] borhood of 4½ million shares of $5 par value stock and approximately 13½ million of 1⅔ par value stock. Do you think that the experience in this offering has any usefulness in this proceeding in terms of forming a judgment as to what the market impact of a stock divestiture will be?

Mr. Cox: I object to the form of the question. He may ask the witness whether he has an opinion based on his experience, I believe.

SUMNER EMERSON, Partner, Morgan Stanley & Co.

1506

the Aluminium situation; it was purely a matter of selling Aluminium stock.

In the case of General Motors, however, there would be [fol. 1597] heavy selling, as we have estimated, well over a million shares a year by du Pont stockholders.

Q. Mr. Emerson, do you have any opinion on the question of whether the offerings of the stock of Aluminium Limited over the period of time between 1951 and the present date has had any impact on the market value of the common stock of that company?

A. I believe that it has.

Q. Now let me direct your attention again to du Pont Exhibit 32 for identification, which is the table of secondary offerings; and I note that on this table you have computed at the extreme right of the table——

Do you have it before you, Mr. Emerson?

A. Yes, sir.

Q. (Continuing)—a market impact by comparing the percentage change in the average of the week's closing prices, four weeks before the offering to two weeks after the offering?

A. Yes, sir.

Q. For each issue. And then you have computed an average impact, and you have done that in two ways: one, including Upjohn, and one excluding Upjohn.

Why did you prepare the chart in that way, Mr. Emerson?

A. Well, the Upjohn impact was so much out of the ordinary that if I included it in the averages, without showing what the average would be without it, I was sure I would be questioned about it, so we showed it both ways.

I think the fair figure is the one with Upjohn, which is the higher figure. Any secondary can have an unusual impact, and Upjohn did; and I see no reason why it should be excluded from the averages. But we did show it both ways.

[fol. 1598] Q. Why did you include Upjohn in the upper part of the chart rather than in the lower part of the chart, under the heading, "No previous public market?"

A. Because it had a public market.

Q. Was there a public market for Upjohn prior to the offering?

1507

A. Prior to the announcement of the Upjohn financing, there was a very thin market. Then the Upjohn Company split its stock 25-for-1, or rather, it wasn't a split; it was a recapitalization in another State, and an issuance of 25 shares for each old share.

The market then began to pick up, but it was still an uninformed market. Until the registration statement was filed, the only way you could know the earnings and assets of the Upjohn Company was to be a stockholder and get their annual report; it was not in any of the Services.

However, once the registration statement was filed, there became a very active market in Upjohn. Well, there is a document used in Wall Street called "the pink sheets," in which over-the-counter dealers list their bid and asked—the price they bid and the number of shares they bid for, and the same on the asked side.

After the registration statement was filed and people knew what the figures of the Upjohn Company were, the number of dealers in the pink sheets every day would run anywhere from 20 to over 40.

Well, that certainly shows an active market, so that at the time the Upjohn offering was made, and for a period of three weeks before then, there had been a very active market; you could trade almost any reasonable amount.

Q. Do those figures in the pink sheets to which you [fol. 1599] refer reflects bids and offers?

A. Bids and offers, by dealers in the over-the-counter market.

Q. Do you recall, Mr. Emerson, how the price of Upjohn moved after the secondary offering of the stock?

A. It went down—at the time of the offering—the day that Upjohn's stock was offered at 45, the over-the-counter

market was right around 50. It went down quite rapidly after that; and it is now, the last I saw it, it was about 41.

Q. What percentage of the outstanding stock, if you know, of the Upjohn Company was included in that secondary offering?

A. About 17 per cent.

Q. Mr. Emerson, let me direct your attention again to du Pont Exhibit 32 for identification and to these figures that show the average impact of the secondary offerings

1516

A. That is correct. An actual loss, not a paper loss.

Q. An actual loss.

Directing your attention to the impact figure that covers the period of time that extends two weeks after the offering, would that figure also be significant, or would it not, to any person who for any reason sold his stock in the interval of time elapsing between the date of offering and two weeks after the offering?

A. Well, the market price is of great significance to anyone who for any reason has to sell; and if the market has gone off after the offering of these secondaries, and some holder of the security involved for any reason has to sell in that period, he receives that much lower price.

Q. Let me direct your attention to the secondary offerings that are listed on du Pont Exhibit 32 for identification, Mr. Emerson; and with those offerings before you, I should like to ask you whether, in your opinion, any of the secondary offerings that are listed in that exhibit created market problems that are comparable to market problems that, in your judgment, would be created by the execution of the proposed Government Plan?

A. None of them.

Q. Now I note on Exhibit 32, as you have testified,

you have computed the average impact of these offerings considered collectively.

In the light of your previous answer, I ask you whether, in your opinion, the average figure is meaningful and, if so, how, in determining the probable market impact of any particular offering of any particular stock in the future?

[fol. 1612] A. There is no such thing as an exact yardstick for measuring the impact of a marketing operation. The figures, all show that there is an impact there, but you can't predict in advance exactly what it is going to be. There is no such thing as a slide rule computation.

For instance, in that exhibit, the first six items listed at the top of the page are all roughly the same size; they are between thirty and forty million dollars; and yet the market impacts—well, in the impact at the time of offering, Caterpillar Tractor was decimal point three, whereas Monsanto was six point three. You simply know that there is going to be an impact, but you cannot tell exactly what it is going to be.

Q. In your opinion, by averaging the market impacts of

1517

the first seven of those secondary offerings that have been listed in the upper part of du Pont Exhibit 32 for identification, would you have been able to predict with certainty what the impact of the eighth one, the Upjohn offering, was?

A. No. We had no knowledge of what the impact in the Upjohn offering was going to be.

Q. At least the computation of the average impact for the earlier offerings did not provide a mechanical test of what the impact of the Upjohn offering was?

A. That is correct.

Q. Again directing your attention to Exhibit 32 for identification, Mr. Emerson, and to the average impact figures which are shown there, both with respect to period of time up to the offering price and the period of time two weeks after the offering, I ask you whether, in your opinion, the impact of the proposed Government plan on the market price of common stock of General Motors would be greater or less than the average impacts computed on the [fol. 1613] exhibit?

A. In my opinion, it would be materially greater.

Q. What are your reasons for that answer?

A. In the first place, each offering by the trustee would be larger than any of those shown at the top of the Exhibit 32, with the exception of Upjohn. In the second place, the offerings by the trustee would be competing; they would be made in a market that was filled with offerings of General Motors stock, because du Pont stockholders were selling General Motors stock for tax reasons. We estimated that that would be a minimum of a million and a quarter shares a year that du Pont stockholders would be selling—a million and a quarter shares of General Motors. And, third, under the Government plan, there would be one of these offerings every year for ten years. The overhang would be terrific.

Q. Mr. Emerson, considering the question of the impact of the Government's plan of market price of General Motors, did you consider the extent to which there may be a latent demand for the common stock of General Motors in the market?

A. Well, there is always a latent demand for any good stock at a price.

Q. I am asking you to what extent you considered the

Is that what you mean?

1558

income. But it had earned more than that in the two preceding years, and $5.00 a share earnings seemed a fair figure.

We assumed that du Pont would then pay approximately its usual percentage of its earnings in dividends. The assumption used was 65 per cent, so that that meant we took into these computations a dividend from du Pont of $3.25 a share.

Mr. Bushby: I would like to offer these exhibits, Christiana Exhibits 9 and 10, in evidence.

The Court: Any objections?

Mr. Reycraft: I understand that these exhibits are similar to Exhibits 6, 7 and 8, and are merely mathematical computations based on certain assumptions?

The Witness: That is correct.

[fol. 1665] Mr. Reycraft: No objection.

The Court: They are admitted.

(Said documents, so offered and received in evidence, were marked Defendant Christiana Exhibits 9 and 10).

By Mr. Bushby:

Q. Mr. Emerson, in the case of the asset calculations, Christiana Exhibits 6, 7 and 8, nothing is shown there by way of an item of loss for any reduction in the value or market price of the du Pont stock owned by either Christiana and Delaware, is there?

A. There is none. The only loss is from the forced sales of the General Motors at a reduced price, because of the market impact.

Q. Mr. Emerson, I would like you to make a different assumption now. I would like you to make the assumption that legislation is passed which would permit a tax-free

distribution of the General Motors shares by du Pont, which would then require the recipient to spread or apportion his tax base cost over the shares of du Pont he retains and his shares of General Motors he receives.

I would like you to assume that under such legislation there is a single tax-free distribution by du Pont of a whole block of 63 million shares of General Motors.

Secondly, I would like to have you assume that there is a Court order entered at the request of the Government requiring Christiana, Delaware and the stockholders of Dela-

1559

ware to hand their stock over to a trustee and require the trustee to make ten annual equal sales of that stock, and that there will take place other sales of General Motors [fol. 1666] stock distributed in that period for whatever reasons that you think such sales would take place.

I would first like to ask you if, under such an order, you think that there would be sales of the stock received by du Pont stockholders other than Christiana and Delaware and the stockholders of Delaware?

A. Yes, there would be.

Q. From what source would they come, in your opinion?

A. Well, 43 million approximately shares of General Motors would be divided among the du Pont stockholders proportionately at one time.

Now, the stockholders of du Pont bought du Pont because they liked du Pont, and some of them might feel that they had all the General Motors they wanted. Some of them may not like General Motors.

For a variety of different reasons, even though there is no tax impact, there would be some selling of General

Motors in addition to any impact from the sales by the trustee.

Q. I don't want to be mysterious. You understand that my hypothetical question is directed to legislation such as the Frear Bill which has been introduced in the Congress?

A. Yes. I understood that this distribution would be tax-free.

Q. Yes. Now, have you formed an opinion as to the effect upon the market value of General Motors stock of the carrying-out of such a decree under such legislation?

A. Yes. It initially would be in the area of 15 per cent, in my opinion.

Q. 15 per cent off?

A. Yes. Well, unless the rest of the market went up 15 per cent, and then it could stand still.

Q. 15 per cent against what General Motors would otherwise sell at any given time?

A. That is right, yes, sir.

[fol. 1667] Q. Have you an opinion how much General Motors would sell off, if any, following the initial period of selling by other recipients of the GM stock besides Christiana, Delaware and the stockholders of Delaware?

A. Well, as I understand your question, you are assuming sales by the trustee regularly.

1560

Q. Right, ten annual sales.

A. Ten annual sales, yes.

The largest part of the General Motors selling by du Pont stockholders would come the first year.

If, for any reason, they don't want to hold du Pont, they presumably would sell it within a reasonable length of time.

Q. I understood your answer related to the first period, the first part of the period, the 15 per cent.

A. My 15 per cent estimate was for the first part of that period.

Q. Now, what is your estimate for the latter part of the period after that selling is over?

A. You would still have the annual impact of the trustees' sales, and my estimate of the impact in that case would be in the range of 10 to 15 per cent.

Q. Now, in making your estimate, you have made certain assumptions, have you not, as to present conditions continuing, as to the same price levels in the stock market, as to there being no substantial change in the automobile industry, and that the status of General Motors in the industry will not worsen, is that correct?

A. That is correct, all of those are assumed.

Q. There have been some severe declines in the stock market, have there not, since World War II?

A. Yes, sir.

Q. There have been severe declines in the price of General Motors stock in the 12 years or more since World War II?

A. Yes, sir.

[fol. 1668] Q. If those declines occur again at a time when the trustee's sales were taking place, would not the market impact be greater than that you have testified to here?

A. Yes.

Q. You have testified that trustees' sales will hamper equity financing by General Motors?

A. Yes, sir.

Q. Isn't there some chance that that would impair General Motors position in the motor car industry in the next ten years?

A. From that cause alone it could happen. If General

Motors isn't free to do the type of financing that it ought to do, and therefore, it does not expand in the way that it otherwise would have expanded or it does not develop in the way it otherwise would have developed it might hurt the competitive position of General Motors Corporation.

Q. Do you believe with Mr. Shanks who testified here that General Motors cannot go on doing debt financing indefinitely?

A. No company can.

Q. So that if those conditions exist it would undermine one of the assumptions that you have made as to his market impact of 15 per cent. If General Motors was hampered the market impact might be greater than 15 per cent?

A. That is correct.

Q. Have you made any computations of asset loss to Christiana and Delaware such as you made on the assumption that the Government decree would go into effect showing the asset loss on this other assumption you have just made about tax-free distribution and ten years of sales.

You have not, but I am just——

A. I don't recall it.

Q. Referring now to Christiana Exhibits 6, 7 and 8, would the results shown there as to asset loss under the [fol. 1669] column headed "15 per cent" be applicable generally to the second assumption that you have a tax free distribution and ten years of sales by a trustee for Christiana, Delaware, and the stockholders of Delaware?

A. No.

Q. Would it be slightly different?

A. Well, it might be materially different.

Q. Why?

A. In the first place, the dividend tax would not be applicable.

Q. Right.

A. In the second place, the capital gains tax would be computed on quite a different basis.

Q. But it would not result in a very different figure, given this order of figures, would it?

A. It would result in lower capital gains taxes.

Q. Slightly lower?

A. Slightly lower.

Q. You have, have you not, made computations of the

1562

pro-forma income, annual income of Christiana and Delaware on this second assumption of a tax-free distribution and ten years of sales by a trustee, Mr. Emerson?

A. I have.

Mr. Bushby: I should like to mark for identification as Christiana Exhibit 11, a tabulation headed, "Christiana Securities Company Pro-Forma Income Statement, Assuming Completion of the Forced GM Sales and the Reinvestment of the Proceeds Therefrom Under a Tax Free Distribution of Such Shares."

(Thereupon said document was marked Defendant Christiana Exhibit No. 11, for identification.)

Mr. Bushby: I would also like to mark for identification as Christiana Exhibit 12, the similar tabulation for Delaware Realty and Investment Company.

[fol. 1670] (Thereupon said document was marked Defendant Christiana Exhibit No. 12, for identification.)

By Mr. Bushby:

Q. Mr. Emerson, have you before you Christiana Exhibit 11?

A. Yes, sir.

Q. Would you state what that tabulation shows?

A. Well, this is a reconstruction or a projection, rather, of the Christiana income account ten years hence after the completion of the trustee sales.

Q. After a tax-free distribution?

A. After a tax-free distribution, but the trustee would still be making his annual sales.

Q. And what income does it show for that 11th year as contrasted with actual income of Christiana for 1958?

A. The projection shows earnings of $50,616,862 as against the actual earnings—these are in both cases on the common stock—for 1958 of $67,495,671, which is exactly a reduction of 25 per cent.

Q. Now looking at Christiana Exhibit 12 for Delaware Realty, what does that show as to comparative income after a ten-year period?

A. This is a reconstruction of the earnings statement of Delaware Realty ten years hence or at the conclusion of

DEAN NEIL JACOBY, U. C. L. A. Graduate School of Business.

1739

basic economic effects of the adoption of the Government plan on General Motors?

A. They would be similar, I believe, to those that would occur with respect to the du Pont Company. If, for example, the price of General Motors stock should be depressed by a factor of 20 per cent under the level it would otherwise reach, this would mean that the cost of capital to General Motors would increase by 20 per cent; or, to be specific, if General Motors would have been able, in the absence of the plan, to have sold stock for, let us say, $50 a share, paying a $2.00 dividend, equity capital in effect is costing it four per cent. If now, as the result of the plan, the stock were to be depressed to, say, $40 per share, equity capital would now cost it five per cent; and

this would be a penalty that General Motors would have to bear, a handicap, as compared with other business corporations with which it is competing for capital.

And as a result of that disadvantage, again, one could [fol. 1891] expect over time some distortion in the allocation of resources among competing business firms in the economy, as the result of which there would be a dampening down of aggregate output or production.

Q. Dean Jacoby, let us assume that the Government plan, instead of being carried out over a 10-year period, as the Government proposes, would be carried out over a period of 15 or 20 years. To what extent would that change in the proposed plan lead you to modify the opinions that you have expressed with respect to the economic and financial consequences of the execution of the plan?

A. In my opinion, the extension of the execution of the plan over a longer period than ten years, would have moderately favorable consequences from the point of view both of the market price of General Motors and du Pont stock, and also from the point of view of their ability to compete for funds in the economy.

I think that this favorable consequence would come about because, in the first instance, a longer time available to du Pont and the trustee to distribute stock would afford a larger number of favorable market opportunities for disposing of General Motors stock, and also a longer period would be provided to the du Pont Company to search for and discover and exploit new investment opportunities.

Q. In reaching the opinions that you have expressed

to have the same degree of impact as there would during a twenty-one day waiting period.

Q. But if you have the twenty-one day waiting period, with a registered secondary, then something happens—you have to withdraw it, and that is a very bad black eye, isn't it?

A. Yes, with that stale or warmed over business it is very difficult to revive buyer interest and demand to the degree that you had it initially. It does have an adverse effect.

Q. Mr. Lenz, I would like to have you make one other assumption. I would like to have you assume that legislation such as the Frear Bill passes, which would make a distribution of the General Motors stock pursuant to a [fol. 2344] court decree by the du Pont Company tax free. And assume a distribution of the whole 63 million shares takes place in one year, but also assume that the Government still insists that a trustee be appointed and that the shares distributable to Christiana and Delaware and the stockholders of Delaware, and also the shares owned by Christiana, be sold in ten approximately equal annual installments.

What do you think the effect on the market price of General Motors stock would be under those assumptions?

A. In other words, you are asking me, Mr. Bushby, what the effect would be of these annual sales of two million shares if the distribution were made on a tax-free basis?

Q. In one distribution?

A. In one distribution.

Q. Because I am assuming that the corporation wouldn't wait to see whether the Frear Bill would be repealed.

A. I think there would be an adverse impact to the extent of, roughly, 10 to 15 per cent, based on studies of other secondary offerings, and in particular the Sloan

BEST COPY AVAILABLE

Foundation distribution of 1,300,000 shares, where the impact was roughly close to five per cent.

Now it might be possible that there would be a little higher percentage resulting from some sales, from the people who are getting General Motors, who don't want General Motors, or who have too much General Motors now. That might add a little bit, but I wouldn't be able to esti-

MURTAUGH EXHIBIT NO. 4

CONFIDENTIAL
Requested by Counsel
Copy No. 22

May 12, 1972

To: C. E. Welch
Assistant General Counsel

From: Treasurer's Department

Possible Merger of Christiana Into Du Pont

This memorandum has been prepared, at your request, for the aid and guidance of counsel in connection with the possible merger of Christiana Securities Company into the Du Pont Company. Appropriate members of the Legal Department staff were consulted on corporate law, tax law, and other legal aspects of the matter.

Du Pont and Christiana recently appointed special committees of their respective Boards to consider a possible merger of Christiana into Du Pont. These committees are expected to make recommendations on the matter to their Boards before the end of 1972, after considering advantages and disadvantages of a merger and discussions regarding acceptable terms. Any plan of merger would be subject to shareholder approval and to obtaining a favorable Federal tax ruling.

This memorandum summarizes pertinent background information, outlines general procedures that might be followed to effect the merger, and discusses certain specific aspects of the matter requiring particular attention.

1. *Background Data*

Christiana (a Delaware corporation) is a closed-end, nondiversified management investment company registered with the Securities and Exchange Commission under the Investment Company Act of 1940. Securities and cash (and a tax claim) comprise the entire assets of Christiana. Securities held include 28.3% of the outstanding shares of Du Pont common stock and about one percent of the outstanding shares of Du Pont $4.50 preferred. In recent years this holding of Du Pont common stock has represented 99% of Christiana's total assets. Security holdings of Christiana are listed below:

No. of Shares	*Company*	*Value at May 1, 1972*	
		Carrying Value	*Market Value*
13 417 120	Du Pont, Common	$74 621 915	$2 222 210 500*
16 256	Du Pont, $4.50 Pfd.	1 298 056	1 095 248*
69 216	Wilmington Trust, Common	903 592	2 837 856**
7 460	News-Journal, Common	846 107	6 800 000***
	Total	$77 669 670	$2 232 943 604

* Based on NYSE closing prices–but this may not be the realizable value of such a large block of stock.

** Based on closing bid price in local OTC market–but this may not be the realizable value of such a large block of stock.

*** Estimated fair market value (estimated at approximate net asset value per books of the News-Journal at 12/31/71).

Wilmington Trust Company stock owned by Christiana represents 3.45% of the outstanding shares of such stock. The News-Journal Company is 100% owned by Christiana.

The following calculation indicates the net asset value of Christiana at May 1, 1972, based on carrying value and on market value.

	Net Asset Value Based on	
	Carrying Value	*Market Value*
Security holdings (as above)	$77 669 670	$2 232 943 604
Cash (and cash equivalents), less current liabilities	5 238 875	5 238 875
Federal tax claim (re tax on GM divestiture)	11 723 013	8 910 000*
Net Asset Value	$94 631 558	$2 247 092 479

* Estimated–assuming settlement for refund of taxes of $7,130,000 (tentative amount currently under discussion with Government attorneys), plus interest.

Capitalization of Christiana at May 1, 1972 (per the books) is as follows:

Capital stock oustanding:	
7% cumulative, non-voting preferred–106,500 shares	$10 650 000*
Common ($1.25 par value)–11,710,103 shares	14 637 629
Total	$25 287 629
Earned Surplus	68 503 453**
Total	$93 791 082

* Par value–$100 a share; liquidation value–$100 a share; call price–$120 a share.

** Christiana's accumulated earnings and profits at May 1, 1972 for Federal tax purposes are $96MM.

Du Pont common shares held by Christiana are equivalent to 1.15 shares of Du Pont common for each share of Christiana common outstanding. At December 31, 1971 there were 6,815 holders of Christiana common stock and 1,543 holders of the Christiana preferred stock.

Christiana common stock is traded in the national Over-the-Counter market; the preferred shares are traded in the local OTC market. Trading volume in both issues is quite limited. The principal "market makers" for

Christiana common currently are Laird & Co., Laird, Bissell & Meeds, Merrill Lynch and Troster, Singer & Co.

Over the years, the market price for Christiana common consistently has been lower than the underlying net asset value (market value basis). Typically, this discount from underlying net asset value has been in the range of 15% to 20%. But for the past two years such discount generally has been in the range of 20% to 25%—and was 23% on April 28, 1972 when Du Pont and Christiana announced that a possible merger would be considered.

2. *Possible Advantages and Disadvantages of Merger*

Since the equity of Christiana preferred stockholders in Christiana's net assets is quite small (only about one-half of one percent of *market value* of net assets) and Christiana's assets consist almost entirely of Du Pont common stock, the merger would represent for the Christiana common stockholders essentially an exchange of their Christiana shares for all (or a large portion) of the shares of Du Pont common now held by Christiana. Some possible advantages and disadvantages of a merger for the Christiana common stockholders are—

a. Advantages

(1) Eliminate Federal income tax (at effective rate of 7.2%) on dividends applicable to Du Pont shares now held by Christiana.

(2) Eliminate market price discount (from market value of underlying security holdings) now applicable to interest in Du Pont Company held via Christiana.

(3) Improved marketability of security holdings.

(4) Eliminate Christiana operating expenses.

b. Disadvantages

(1) Loss of any benefit derived from holding some 28% of outstanding Du Pont common shares in a single block.

(2) Loss of equity to extent of any financial gain to Du Pont resulting from the merger terms—except that former Christiana shareholders would recapture a portion thereof by reason of becoming direct stockholders of Du Pont.

(3) Expenses of merger.

Possible advantages and disadvantages of a merger for Du Pont and its common stockholders are—

a. Advantages

(1) Any financial gain to Du Pont resulting from the merger terms (only the Du Pont stockholders other than former Christiana stockholders would realize net advantage from this).

(2) Dispersion into some 7M separate holdings of the large single block of Du Pont common now held by Christiana.

(3) Corporate simplification (e.g., elimination of need to seek exemption order under the "1940 Act" for Du Pont to enter into certain types of commercial transactions).

b. Disadvantages

(1) Expenses of merger.

As an alternative to merger into Du Pont, Christiana and its stockholders have available the means to achieve substantially the same end result (except for tax costs) through liquidation of Christiana and distribution of its

assets to its stockholders (i.e., a so-called "one-month liquidation" under Section 333 of the Internal Revenue Code). Federal tax on such a liquidation would be limited to tax on Christiana's accumulated earnings and profits (as calculated for Federal tax purposes—currently about $96MM), provided holders of a sufficient volume of Christiana shares elected such tax treatment (such election by holders of at least 80% of shares held by corporate stockholders and by holders of at least 80% of shares held by other stockholders would be required). Assuming these election requirements were met, Federal tax to be paid by Christiana stockholders as a result of a "one-month liquidation" of Christiana probably would be in the range of $50MM to $60MM.

3. *Form of Merger*

Merger of Christiana into Du Pont probably should take the form of a statutory merger. Such a merger transaction could be structured so as to be "tax-free" to all parties involved (Du Pont; Christiana; Christiana stockholders). In a statutory merger the Christiana common stockholders would receive shares of Du Pont common in exchange for their Christiana shares, at the rate specified in the agreed upon merger terms, and Christiana would cease to exist as a corporate entity. Possibilities regarding treatment of the Christiana preferred stockholders, and also the handling of News-Journal and Wilmington Trust Co. stocks now held by Christiana, are discussed in some detail in later sections of this memorandum. Certain important aspects of a statutory merger of Christiana into Du Pont are discussed below:

a. Stockholder approval

Under Delaware Corporation Law (and, as to Du Pont, also under rules of the New York Stock Exchange) a statutory merger of Christiana into Du Pont would require prior approval of the stockholders of each of the companies. Du Pont common and preferred stockholders would vote together as a single class, and a majority affirmative vote of the shares outstanding would be required to effect the merger. This same procedure would be applicable to Christiana. It may also be necessary for Du Pont to obtain stockholder approval to increase the authorized number of shares of Du Pont common (now 60MM) to have sufficient shares authorized to effect the merger.

It would be necessary for Du Pont and Christiana to call special meetings of their stockholders for stockholder vote on the merger proposal, unless timing is such that it could be handled conveniently at the regular annual stockholder meetings. Scope of material to be included in the proxy statements for stockholders on the matter would be about the same as required by the SEC for a registration statement in connection with a public offering of stock.

No appraisal rights would be available to any dissenting Du Pont or Christiana stockholders (except Christiana preferred stockholders) under Delaware Corporation Law. However, in certain recent merger transactions the companies involved have voluntarily granted appraisal rights to dissenting stockholders. The possibility of granting voluntary appraisal rights in connection with a merger of Christiana into Du Pont is under study.

b. SEC exemption order

Merger of Christiana into Du Pont would be prohibited by the Investment Company Act of 1940 unless a prior exemption order with respect thereto is obtained from the SEC. In application to the SEC for the exemption order it would be necessary to demonstrate that the terms of the proposed merger are reasonable and fair and do not involve overreaching on the part of any person concerned.

We believe the SEC would grant such an exemption order without holding a public hearing on the matter. But the SEC frequently requires several months to process such an application and grant the requested exemption order. Based on past practice, we expect that the SEC would require that each stockholder of Du Pont and of Christiana be supplied with a copy of the public notice regarding the application for exemption order that would be published in the Federal Register by the SEC.

c. Tax ruling

It should be possible to structure a statutory merger of Christiana into Du Pont in such manner that there could be little question as to its "tax-free" status. But securities with aggregate value of some $2 billion would be involved and it would be prudent to obtain a favorable Federal tax ruling on the proposed transaction before the merger is consummated.

d. Mechanics

When the merger becomes effective, Christiana common stockholders would be requested to surrender their certificates for Christiana common shares in exchange for certificates for an appropriate number of Du Pont common shares. No certificates for fractional shares of Du Pont common would be issued. Instead, each person entitled to a fractional interest in a share of Du Pont common would be given opportunity, through an Order Form Agent appointed for the purpose, to purchase an additional fractional interest to make up a full share, or sell his fractional interest.

Dividends payable on Du Pont common after the effective date of the merger would not be paid with respect to any Du Pont shares represented by Christiana certificates not yet surrendered for exchange. Du Pont would hold funds for such dividends, for payment when the Christiana certificates are surrendered.

As an alternative to a statutory merger, the transaction could take the form of an acquisition by Du Pont of all of the business and net assets of Christiana, using Du Pont common stock for payment; Christiana then would distribute the Du Pont stock to its stockholders and dissolve. A transaction in this form could be structured so as to be "tax-free", but it would be more complex than a statutory merger transaction and from a practical standpoint we do not now know of any benefit to be gained by following such a route.

4. *Christiana Preferred Stock*

In planning for a merger of Christiana into Du Pont appropriate arrangements must be made to give equitable treatment to the Christiana preferred stockholders.

The Christiana preferred stock was issued in 1922, as a stock dividend on the common shares. Because of

the high dividend rate (7%), market price for the preferred shares frequently has been somewhat above the $120 call price, but the price has declined in recent years (reflecting the higher general level of interest rates) and now is about $100 a share.

Preferred stockholders of Christiana are entitled to receive $100 a share if Christiana is liquidated. Under Delaware Corporation Law payment to the preferred stockholders to retire their preferred shares is limited to not more than the call price of $120 a share. Thus, it would seem to be indicated that settlement with the preferred stockholders should be on the basis of some amount in the range of $100 to $120 a share. This should be primarily a matter for Christiana to determine—i.e., Christiana should decide how the total value of Christiana should be distributed as between its preferred stockholders and its common stockholders. Some alternatives that might be available with respect to treatment of the Christiana preferred stockholders are listed below—

a. Call preferred shares for redemption at some time prior to the merger (107M shares at $120 a share would require $13MM in cash for the redemption).

b. Call preferred shares for redemption as of the effective date of the merger (also would require $13MM in cash for the redemption).

c. Arrange merger terms to give the preferred stockholders Du Pont common stock with value equal to some amount in the range of $100 to $120 a share in exchange for their preferred shares.

d. Arrange merger terms to give the preferred stockholders Du Pont common stock as in c. above—or, at the election of a stockholder, an equivalent amount in cash.

Tax impact on the Christiana preferred stockholders of these various methods will require careful study and probably will have important bearing on the ultimate decision as to appropriate treatment of the preferred stockholders.

5. *News-Journal Stock*

The News-Journal Company, wholly-owned by Christiana, publishes the only newspaper in Wilmington. It would not seem desirable, from the standpoint of good public relations, for Du Pont to own the only newspaper in its headquarters city. Accordingly, disposition of this holding by some appropriate means—either before the merger or promptly thereafter—would seem to be indicated. Some possibilities that might be available to Christiana for disposition of the News-Journal holding prior to the merger are discussed briefly below—

a. Sale of News-Journal

Christiana could sell the News-Journal stock to a suitable buyer for cash (or securities readily convertible into cash). Perhaps an independent appraisal to determine the fair value of the stock would be desirable. Proceeds from sale would be subject to tax—at 30% capital gains rate on any amount in excess of Christiana's $846,107 tax basis for the stock.

b. Exchange News-Journal shares for Christiana common

Offer could be made to exchange News-Journal shares for Christiana common shares (similar to earlier exchanges of GM and Hercules shares for Christiana common). Such an offer might reasonably reflect a premium to exchanging stockholders equal to a substantial portion of the tax cost that

would be incurred by Christiana upon sale of the News-Journal shares. Because of timing considerations, the relatively small value of the News-Journal holding, and the many complexities involved in making such an exchange, it is doubtful if this method of disposal would be very attractive for Christiana.

c. Distribute News-Journal shares pro rata to Christiana common stockholders

Christiana could distribute the News-Journal shares pro rata to Christiana common stockholders (1) as a distribution *in addition* to regular cash dividends, or (2) as a distribution *in lieu* of a portion of regular cash dividends (value of the News-Journal probably would be equal to some 10% to 15% of Christiana's annual cash dividend on common). Such a distribution would be taxed to the shareholders as a dividend (tax might amount to some 50% to 60% of the value of the News-Journal). But if the distribution is in lieu of a portion of regular cash dividends it would not increase the amount of taxes the stockholders otherwise would have to pay—and cash equal to the value of the News-Journal would be retained by Christiana and would flow to Du Pont in the merger as part of the assets exchanged for Du Pont common.

Following the distribution the News-Journal would have about 7M stockholders (i.e., those who now are holders of Christiana common). The News-Journal could continue to operate as an independent newspaper enterprise or, in due course, it might—

(1) sell its newspaper business to a suitable buyer, or

(2) enter into a tax-free merger with a reputable publishing company (or other business enterprise).

If Christiana does not dispose of the News-Journal prior to the merger, the News-Journal shares would flow to Du Pont in the merger. An independent appraisal to determine the value of the News-Journal for merger purposes would be indicated. Also, appropriate allowance should be made in the merger terms for tax and other costs that Du Pont might incur in ultimate disposition of the News-Journal. Following the merger Du Pont might sell its News-Journal holding or work out a tax-free merger of the News-Journal into a reputable publishing company (in exchange for stock that could be converted into cash in due course).

6. *Wilmington Trust Stock*

It would also seem desirable that Christiana dispose of its Wilmington Trust stock before the merger if practicable. A program by Christiana to sell this stock through normal market channels over a suitable span of time (or possibly via private placement) should be feasible. Proceeds from sale would be subject to tax—at 30% capital gains rate on any amount in excess of Christiana's $903,592 tax basis for the stock.

If Christiana does not dispose of the Wilmington Trust stock and it flows to Du Pont as a result of the merger, we would see no sound business reason for Du Pont to continue to hold the shares simply as an investment. The Wilmington Trust shares could be contributed to the Du Pont pension fund in lieu of an amount of cash

corresponding to the fair market value of the shares. But this would generate tax to Du Pont at the 30% capital gains rate on the difference between the fair market value of the shares (about $2.8MM) and Christiana's $903,592 tax basis for the shares. Moreover, we believe it would be undesirable for the Du Pont pension fund to hold Wilmington Trust shares. As a matter of policy, we have never invested any part of the pension funds in Du Pont common or General Motors common—to avoid any possible basis for criticism of Du Pont with respect to its fiduciary duty regarding the Fund because of such a holding. We feel that these same considerations are applicable to stock of Wilmington Trust, the trustee of the Fund.

It appears to be indicated that Du Pont should sell any Wilmington Trust shares it receives in the merger fairly promptly after the merger. Appropriate allowance should be made in the merger terms for tax and other costs that Du Pont might incur as a result of the sale.

7. *Tax Claim*

Christiana has filed suit in the U. S. District Court for refund of a substantial amount of Federal income taxes and interest. The suit relates principally to taxes on GM stock received by Christiana as a result of the Du Pont divestiture of its GM holdings in 1962-65. Discussions between Christiana's counsel and Government attorneys have resulted in tentative understanding that a settlement of the suit for refund of taxes of about $7.1MM, plus interest (which interest would be about $1.8MM, net of tax, up to this time), might be possible. Such possible settlement is under consideration in the Justice Department at present; any settlement ultimately agreed upon would require approval of the Joint Committee on Internal Revenue Taxation of the Congress.

It is highly unlikely that this claim could be settled prior to the merger, and this outstanding tax claim probably will be a part of the Christiana assets flowing to Du Pont as a result of the merger. Careful analysis will be required to establish a fair and reasonable value for the tax claim for purposes of the merger.

8. *Financial Experts*

Since a number of the Du Pont directors own Christiana common stock and five of the Du Pont directors also are directors of Christiana, it is important that extraordinary effort be made to assure that the merger terms are fair and reasonable for all parties affected. It is contemplated that advice of independent financial experts will be obtained for guidance in negotiating acceptable merger terms. A plan now under consideration for obtaining suitable advice of independent financial experts is as follows—

1. Morgan Stanley & Co.—an investment banking firm that has had close relationships with both Du Pont and Christiana for many years—would be retained jointly by Du Pont and Christiana to develop recommendations regarding suitable merger terms and submit report thereon to both Du Pont and Christiana.
2. Du Pont and Christiana each would retain a separate independent financial expert of its own choice to submit recommendations to its principal (i.e., Du Pont or Christiana).

9. *Time Schedule*

A precise time schedule for the proposed merger has not yet been developed. Schedule generally along the following lines might be indicated—

May	1. Retain independent financial experts 2. Start work on preparation of various documents that will be required
End of June	Receive reports from independent financial experts
Early July	Negotiate merger terms
Mid-July	1. Du Pont & Christiana Boards meet to— (a) approve merger terms (b) call special meetings of stockholders 2. File application for SEC exemption order 3. File request for tax ruling
End of August	Mail proxy material
End of September	1. Special stockholders meetings (Du Pont and Christiana) 2. Closing (timing of closing could be delayed if SEC exemption order or tax ruling have not been received).

Treasury Division

MURTAUGH EXHIBIT NO. 5

(Exclusive of exhibits)

July 10, 1972

To: Executive Committee

From: Special Committee of the Board of Directors

Merger of Christiana Into Du Pont

Special committees of the Boards of Directors of Christiana Securities Company (Edward B. du Pont; A. Felix du Pont, Jr.) and the Du Pont Company (C. B. McCoy; I. S. Shapiro) were appointed earlier this year to consider a possible merger of Christiana into Du Pont. The special committees have considered advantages and disadvantages of such a merger and have concluded that there are mutual benefits to Christiana and Du Pont and the stockholders of both companies to be gained from a merger. Independent financial advisors were engaged to provide guidance regarding appropriate merger terms. A proposed plan of merger, negotiated by the special committees, is presented herein—and the Du Pont special committe recommends approval thereof by the Du Pont Company.

A merger pursuant to the proposed plan would benefit Christiana common stockholders through increase in market value of securities they own (i.e., those representing an interest, indirectly or directly, in the Du Pont Company) and improved marketability of such securities; also, the intercorporate tax on Du Pont dividends now flowing to them via Christiana would be eliminated. Du Pont and its common stockholders would benefit from the effect of the discount ($57.7MM—$1.22 per Du Pont common

share) of Christiana's net asset value reflected in the merger terms. Collateral advantages to Du Pont would be (1) dispersion to some 8M Christiana stockholders of the large block of Du Pont common now held by Christiana, and (2) some corporate simplification (e.g., elimination of administrative inconvenience involved in complying with the Investment Company Act of 1940). Comprehensive discussion of the proposed plan of merger and the effects thereof on Christiana and Du Pont and the stockholders of both companies follows.

1. *Background*

Christiana (a Delaware corporation) is a closed-end, non-diversified management investment company registered with the Securities and Exchange Commission under the Investment Company Act of 1940. Data regarding capitalization and stockholders of Christiana at May 31, 1972 are shown in the following tabulation:

Capital stock outstanding:	
7% cumulative, nonvoting preferred, $100 par value—106,500 shares	$10 650 000
Common, $1.25 par value—11,710,103 shares	14 637 629
Total	25 287 629
Earned surplus	68 503 453
Total capitalization	$93 791 082
Number of stockholders:	
Preferred	1 543
Common	6 815

The Christiana preferred stock is callable at $120 a share and is entitled to $100 a share in event of liquidation.

Security holdings of Christiana and book and market values thereof at May 31, 1972 are shown below:

No. of Shares	*Security*	*Value at May 31, 1972*	
		Book Value	*Market Value*
13 417 120	Du Pont, Common	$74 621 915	$2 284 264 680*
16 256	Du Pont, $4.50 Pfd.	1 298 056	1 123 696*
69 216	Wilmington Trust Co., Common	903 592	2 820 552**
7 460	News-Journal Co., Common	846 107	24 250 000***
	Total	$77 669 670	$2 312 458 928

* Based on closing price on the New York Stock Exchange.
** Based on closing bid price in the local over-the-counter market.
*** Indicated fair market value (including $1,250M for net quick assets), based on appraisal by Mr. Vincent J. Manno, an expert in the newspaper field.

Du Pont stock held by Christiana represents 28.28% of the outstanding Du Pont common shares (equivalent to 1.15 shares per share of Christiana common) and .96% of the outstanding Du Pont $4.50 preferred shares. Wilmington Trust Co. stock held by Christiana represents 3.45% of the outstanding shares. The News-Journal Co. is wholly-owned by Christiana.

In addition to the security holdings listed above, Christiana has other assets consisting of (1) cash and cash equivalents, less current liabilities, in the net amount of $5,238,875 (at 5/1/72), and (2) a claim for refund of Federal income taxes and interest, carried on the books as a deferred charge in the amount of $11,723,013. The claim for tax refund, amounting to approximately $21 million, principally involves a controversy as to the fair market value for Federal income tax purposes of the very large blocks of General Motors common stock received by Christiana in 1962, 1964 and 1965 as a result of the General Motors divestiture distribution by Du Pont.

Market value of the large block of Du Pont common shares held by Christiana represents some 98% to 99% of

the current market value of Christiana's total assets and virtually all of Christiana's gross income consists of dividends paid on these Du Pont common shares. Christiana has consistently followed the practice of declaring dividends on its common stock in an amount nearly equal to its net earnings per share of common stock. Thus, a holding of Christiana common stock represents essentially a holding, indirectly, of Du Pont common stock.

The common stockholders of Christiana could realize certain advantages by holding their interest in Du Pont directly, in the form of Du Pont common stock, rather than indirectly via ownership of Christiana common stock, as follows:

a. *Market value of the securities held would tend to reflect their full intrinsic value*—Christiana common stock has traditionally traded at a discount compared to the market value, at then current prices, of the net assets underlying the Christiana common stock. Over the past two years this discount generally has been in the range of 20% to 25%—and was 23% on April 28, 1972, when it was announced publicly that a possible merger would be considered. With the Christiana interest in Du Pont held directly by Christiana stockholders via ownership of Du Pont common, this discount would be eliminated.

b. *Securities held would be more readily marketable*—Christiana common stock is traded in limited volume in the over-the-counter market. Du Pont common stock has a broad quoted market on the New York Stock Exchange and more limited markets on other exchanges. In the first five months of 1972 weekly trading volume averaged approximately 92,000 shares for Du Pont common and only about 2,600 shares for Christiana common.

c. *Income would be increased*—Dividends paid by Du Pont to Christiana must be reduced by the Federal intercorporate dividend tax (currently at an effective rate of 7.2%) and other (relatively minor) operating expenses of Christiana before they can be passed on by Christiana to the Christiana stockholders.

From time to time Christiana and Du Pont have considered the desirability and feasibility of merger. Christiana initiated the current merger discussions, stating the belief that (1) benefits from realizing the foregoing advantages may now outweigh the benefits derived from the holding of a large block of Du Pont stock by Christiana, and (2) a merger might be practicable on terms that would be favorable to both Christiana and Du Pont and the stockholders of both companies.

Christiana's proposal to consider a merger is of interest to Du Pont principally because it presents a possible opportunity for Du Pont to acquire the substantial block of Du Pont common now held by Christiana at some discount from current market price, in exchange for new Du Pont common shares valued at current market price. The financial benefit to Du Pont from an exchange on such a basis would not result in corresponding loss of equity to Christiana stockholders—because they would recapture some 28% thereof by reason of becoming direct common stockholders of Du Pont. The merger also would provide advantage to Du Pont from (1) dispersion into some 8M separate holdings of the large single block of Du Pont common now held by Christiana, and (2) some corporate simplification (e.g., Du Pont no longer would be required

to obtain prior exemption orders under the Investment Company Act of 1940 before undertaking certain types of commercial transactions).

2. *General Merger Plan*

The proposed plan of merger contemplates that the transaction will take the form of a statutory merger—the form most desirable from the standpoint of obtaining a Federal ruling that the transaction will be "tax-free". On the effective date of the merger both classes of Christiana stock—preferred and common—will be converted into Du Pont common stock at the rates specified in the agreed upon merger terms, and Christiana's corporate existence will then cease. The merger agreement will provide (as discussed hereinafter) that the holders of Christiana common on the effective date of the merger are contingently entitled to additional shares of Du Pont common stock upon ultimate settlement of the pending Christiana claim for tax refund.

The shares of Du Pont common used for the merger will be newly issued shares. The shares of Du Pont common and Du Pont $4.50 Preferred received from Christiana in the merger will be retired.

Christiana stockholders will be requested to surrender their certificates for Christiana stock in exchange for certificates for an appropriate number of Du Pont common shares. Dividends payable on Du Pont common after the effective date of the merger will not be paid with respect to any Du Pont shares represented by Christiana certificates not yet surrendered for exchange. Du Pont will hold funds for such dividends, for payment when the Christiana certificates are surrendered.

No fractional shares of Du Pont common will be issued to the Christiana stockholders. Instead, Christiana

stockholders having a fractional interest in a share of Du Pont common will be provided an opportunity, through an Agent appointed for such purpose, to 1) sell such interest or 2) purchase the additional fractional interest required to make up one full share.

Certain important procedural matters with respect to the proposed merger are discussed below.

a. Stockholder approval

Under Delaware Corporation Law (and, as to Du Pont, also under rules of the New York Stock Exchange) a statutory merger of Christiana into Du Pont requires prior approval of the stockholders of each of the companies. Du Pont common and preferred stockholders would vote together as a single class, and a majority affirmative vote of the shares outstanding would be required to effect the merger. This same procedure would be applicable to Christiana. It will also be necessary for Du Pont to obtain stockholder approval to increase the authorized number of shares of Du Pont common (now 60MM) to have sufficient shares authorized to effect the merger. Special meetings of Christiana and Du Pont stockholders for such purpose later this year (probably in November or December) are contemplated. Scope of material to be included in the proxy statements for stockholders on the matter will be about the same as required by the SEC for a registration statement in connection with a public offering of stock.

b. SEC exemption order

Merger of Christiana into Du Pont is prohibited by the Investment Company Act of 1940, unless a prior exemption order with respect thereto is ob-

tained from the SEC. In application to the SEC for the exemption order it will be necessary to demonstrate that the terms of the proposed merger are reasonable and fair and do not involve overreaching on the part of any person concerned.

We believe the SEC will grant an exemption order. But the SEC frequently requires several months to process such an application and grant the requested exemption order. The main steps involved are—

(1) Christiana and Du Pont file joint application for an exemption order, giving therein a comprehensive description of the proposed transaction and its effects on the parties involved.

(2) After study and determination that the proposal appears fair to all concerned, the SEC publishes a Notice in the Federal Register describing the proposed transaction and giving a specified period (perhaps 20 to 30 days) for interested parties to request a formal hearing on the matter. We expect the SEC to require that a copy of this Notice be sent to each Christiana and Du Pont stockholder.

(3) When the specified period for requesting a hearing ends, the SEC will determine whether there should be a formal hearing, an informal hearing or no hearing on the matter. The SEC could require a hearing even if none is requested, or deny a hearing even if one is requested.

(4) When any required hearing is completed and the SEC is fully satisfied as to the fairness of the proposed transaction, it will issue the requested exemption order.

c. Tax ruling

It might be possible to structure a statutory merger of Christiana into Du Pont in such manner that there would be little question as to its "tax-free" status. But securities with aggregate value of some $2 billion are involved and it is prudent to obtain a favorable Federal tax ruling on the proposed transaction before the merger is consummated. A period of some 3 to 4 months might be required to obtain such a ruling.

3. *Treatment of Tax Claim*

Christiana has filed suit in the U. S. District Court for refund of a substantial amount (some $21MM) of Federal income taxes and interest. The suit relates principally to taxes on GM stock received by Christiana as a result of the Du Pont divestiture of its GM holdings in 1962-65. Discussions between Christiana's counsel and Government attorneys have resulted in tentative understanding that a settlement of the suit for refund of taxes of about $7.1MM, plus interest (which interest would be about $1.8MM, net of tax, up to this time), might be possible. Such possible settlement is under consideration in the Justice Department at present; any settlement ultimately agreed upon would require approval of the Joint Committee on Internal Revenue Taxation of the Congress. Counsel are uncertain as to whether some settlement might ultimately be achieved or the suit will have to come to trial in the District Court.

Christiana and Du Pont and the financial advisors know of no reasonable method to determine at this time the fair value of Christiana's tax claim, because there is no

way of predicting the amount, if any, that will ultimately be recovered with respect thereto. Therefore, the merger terms contemplate that the tax claim, together with $1 million of Christiana's cash to be reserved to cover expenses to pursue the claim, will be treated at the time of merger as having no value. The tax claim and related cash reserved for expenses will become the property of Du Pont on the effective date of the merger, but a Tax Claim Committee, consisting of the present directors of Christiana and successors thereof elected by a majority of the whole Tax Claim Committee to fill any vacancies, will be established to manage, with assistance of counsel and on behalf of the former Christiana common stockholders, matters pertaining to pursuit of the tax claim. Du Pont will not participate in decisions regarding litigation or other developments with respect to the tax claim. The Tax Claim Committee will have complete responsibility for all such decisions and full authority to dispose of the tax claim in any manner that it deems to be in the best interests of the former Christiana common stockholders.

Du Pont will use the funds reserved for expenses for payment of expenses incurred by the Tax Claim Committee. Upon settlement of the tax claim, any residue of such funds, together with funds equivalent to net proceeds from settlement of the tax claim, will be converted into Du Pont common stock having corresponding value and such shares will be delivered to an Agent appointed for the purpose. The Agent will distribute these additional shares of Du Pont common pro rata to the former Christiana common stockholders in proportion to the Du Pont common stock received by them in the merger transaction. The price for Du Pont common stock to be used for the foregoing conversion will be the average of the closing prices for Du Pont common on the New York Stock Exchange for the ten

trading days preceding the date on which refund payment by the Government is received by Du Pont or, if no refund is to be received, the date on which final judgment to that effect becomes final.

In order to maintain the tax-free status of the merger, any additional Du Pont shares must be delivered within five years from the effective date of the merger. If the tax claim is not settled within that period, Du Pont will negotiate in good faith with the Tax Claim Committee during the final 45 days of the five-year period to determine the then fair value of the claim. If agreement as to such fair value is reached, a distribution of additional Du Pont shares based thereon will be made at that time. If Du Pont and the Tax Claim Committee are unable to agree at that time on fair value of the claim, the additional distribution will be deferred until ultimate settlement of the claim, and then be made in cash.

4. *Treatment of Miscellaneous Stocks*

Du Pont will receive from Christiana in the merger 69,216 shares of Wilmington Trust Company common stock with current market value of $2.8MM and all outstanding shares of the News-Journal Company with an appraised fair value of $24.3MM. Du Pont would prefer that Christiana dispose of these holdings before the merger, but Christiana is not in position to do so on an orderly basis.

Wilmington Trust is the trustee for the Du Pont pension fund and the Du Pont thrift plan and, in any event, there is no logical basis for Du Pont maintaining an investment in bank stock. The News-Journal Co. publishes the only daily newspapers in Wilmington, Du Pont's headquarters city. Therefore, it is intended that Du Pont will hold these two investments for only the period required for orderly disposition thereof. The proposed merger

terms reflect suitable allowance for expenses that might be incurred in connection with sale of these inves' nents and for tax on gain (excess of sale proceeds over Christiana's tax basis for the securities) resulting from such sale.

Christiana and Du Pont jointly engaged Mr. Vincent J. Manno, an expert in the newspaper field, to make an independent appraisal and evaluation of the fair market value of the outstanding common stock of the News-Journal Co. Mr. Manno concluded that such fair market value is $23MM, plus net quick assets (about $1,250,000). This appraised value seems quite high, judging according to any normal standards. For example, the appraised value is nearly 50 times annual News-Journal Co. net income of about $500M in recent years. Typically, price-earnings ratios for publicly traded newspaper stocks are mainly in the range of 20 to 25. Mr. Manno feels that News-Journal earnings are well below a reasonable potential level and that those interested in buying newspapers will recognize the News-Journal earnings potential and be prepared to accept a purchase price reflecting such potential.

Du Pont will have risk of possible loss upon sale of the News-Journal Co., considering that (1) despite Mr. Manno's views on the matter, potential buyers may not be willing to meet a sale price reflecting full earnings potential, and (2) Du Pont will have need to be selective, in the light of its overall community interests, to assure sale to a fully responsible buyer. This possible risk of loss has been taken into account in negotiating the proposed merger terms.

5. *Treatment of Merger Expenses*

Both Christiana and Du Pont will incur certain expenses in connection with the merger transaction, estimated as follows:

Professional fees (legal, financial advisors, etc.)	$1 150 000
Printing, mailing, etc.	350 000
Total	$1 500 000

About 40% of these estimated expenses will be incurred by Christiana, and the remaining 60% by Du Pont. The special Board committees have agreed that it would be equitable for Christiana and Du Pont to share the total estimated merger expenses equally. Du Pont will make payment for all of the merger expenses, and will recover 50% of the estimated merger expenses from Christiana via deduction in computing Christiana's adjusted net asset value for purposes of the merger.

6. *Basis for Merger Terms*

Five of the Du Pont directors also are directors of Christiana, and seven additional Du Pont directors own shares of Christiana common stock. Christiana is a major stockholder of Du Pont. Benefits to Christiana from the merger will be quite visible and substantial. Christiana appears to have no reasonable alternative means available to achieve approximately the same benefits it will realize from the merger. The merger terms must be structured so that they provide Du Pont sound business reasons to undertake the merger and a basis for presenting to Du Pont stockholders (including some 60M Du Pont employees who are stockholders) a proposal that the stockholders, generally, will consider attractive and worthy of a favorable vote. The merger terms must be such that they will stand-up under close scrutiny by the SEC to assure fairness to all parties affected by the merger.

Taken together, the foregoing factors have underscored the need for the merger negotiations to be com-

pletely free of any possible conflict of interest and for extraordinary effort to be made to assure that the merger terms are fair and reasonable for all parties involved. In view of these circumstances, independent financial advisors, none of which has any affiliation with either Christiana or Du Pont, were engaged to provide advice and guidance regarding the terms of the merger, as follows:

a. Morgan Stanley & Co., which firm is familiar with Du Pont and Christiana and has advised both companies on financial matters for a number of years, was engaged jointly by Christiana and Du Pont to advise both companies regarding appropriate merger terms.

b. Kidder, Peabody & Co., Incorporated was engaged by Christiana to advise Christiana separately regarding appropriate merger terms.

c. The First Boston Corporation was engaged by Du Pont to advise Du Pont separately regarding appropriate merger terms.

Reports submitted by the three independent financial advisors with respect to their studies and recommendations accompany this report.

A variety of factors that might be pertinent with respect to merger terms were considered by the independent financial advisors in their studies, as outlined in their reports, and by the special Board committees in the course of negotiations. But attention ultimately centered mainly on—

a. whether Christiana stockholders should receive Du Pont common stock with current market value equal to the current market value of Christiana's underlying net assets, or some lesser (or greater) amount to reflect a discount (or premium) from such net asset value; and

b. the volume of Du Pont common shares that could flow to Christiana stockholders without diluting Du Pont's financial position (earnings per share; dividends per share; etc.)—and, alternatively, the volume that could so flow and result in some modest improvement in Du Pont earnings per share.

The independent financial advisors recommended ranges of basic merger terms that they would consider fair and reasonable. Their recommendations with respect to basic merger terms, expressed in terms of % discount (or premium) from Christiana's adjusted net asset value (i.e., actual underlying net asset value, adjusted to reflect the value of the respective assets to Du Pont), are summarized below:

	Recommended Range of Discount (or Premium)
Morgan Stanley & Co.	½% discount to 2½% discount
Kidder, Peabody & Co., Inc.	2% premium to 3% discount
*The First Boston Corp.	1.1% discount to 3.7% discount

* First Boston recommendation is stated in terms of the primary merger ratio (i.e., the number of Du Pont common shares to be exchanged for each Christiana common share). See Exhibit A for calculation to translate such recommendation to the equivalent in terms of % discount from Christiana adjusted net asset value.

The Du Pont special Board committee considered it necessary that the merger terms reflect discount of Christiana's adjusted net asset value at a rate adequate to provide Du Pont good business reasons for the merger and an attractive proposition to present to Du Pont stockholders for their consideration.

Working from these premises, merger negotiations were undertaken with the Christiana special Board com-

mittee—and agreement was reached that Christiana's adjusted net asset value should be discounted 2½% ($57.7MM) for purposes of the merger. Thus, the proposed merger terms are such as to provide Christiana stockholders shares of Du Pont common stock with current market value equal to 97½% of Christiana's adjusted net asset value in exchange for their Christiana shares. Exhibit B shows detail as of May 31, 1972 of Christiana's net asset value, adjustments thereto to reflect the respective assets at their value to Du Pont, and the adjusted net asset value.

Christiana stockholders will have erosion of their equity interest only to the extent of about 72% of the amount of discount of Christiana's adjusted net asset value reflected in the merger terms—see below:

	Amount	*% of Adjusted Net Asset Value*
Discount reflected in merger terms	$57.7MM	2.5%
Portion recaptured by Christiana stockholders by reason of becoming direct common stockholders of Du Pont	16.1	.7
Net erosion of equity	$41.6MM	1.8%

The 2½% discount rate for the merger transaction compares with a 1½% discount (of Delaware Realty net assets) reflected in the terms of the Christiana-Delaware Realty merger in 1961. In that case there were relatively few public stockholders (of Christiana) involved; in the current transaction more than 200M public stockholders of Du Pont (including some 60M Du Pont employees) will be affected.

The proposed merger terms fall within the range recommended by each of the independent financial advisors and each such advisor has stated the opinion that

the proposed terms are fair and reasonable. Counsel (Covington & Burling) is of the opinion that the proposed merger terms are fair and reasonable and believes that the proposed merger plan will be acceptable to the SEC for purposes of issuing an exemption order with respect thereto. The Du Pont special Board committee considers the proposed merger terms to be fair and reasonable, and appropriate under all of the surrounding circumstances.

7. *Merger Ratios*

The volume of Du Pont common shares available for Christiana stockholders in connection with the merger (13,219M based on May 31, 1972 data) must be divided appropriately between the preferred stockholders and the common stockholders of Christiana.

Each of the independent financial advisors recommended that the Christiana preferred stockholders receive Du Pont common shares with current market value equal to $120 per preferred share (the call price for the preferred—and the maximum that can be given to the preferred stockholders under Christiana's Certificate of Incorporation) in exchange for their preferred shares. Christiana desires that its preferred stockholders be given this favorable treatment, and the proposed merger terms provide for exchange on such basis with the Christiana preferred stockholders. Based on May 31, 1972 data, the Christiana preferred stockholders would receive .7048 share of Du Pont common for each Christiana preferred share.

Under Delaware Corporation Law, any holder of Christiana's preferred stock who does not vote in favor of the merger and who objects in writing within the prescribed time may receive a cash payment equal to the appraised value of his preferred stock—which we would

expect to be the $120 call price. (No such right is available with respect to any Du Pont common or preferred shares or any Christiana common shares.) Christiana stockholders receiving such cash payment would be subject to tax on any gain involved (as would any Christiana stockholder who sells a fractional share interest received in the merger).

Calculation of the merger ratio that would be applicable to the Christiana common stockholders based on May 31, 1972 data is shown below:

Adjusted net asset value of Christiana (see Exhibit B)	$2 308 292M
Less—Discount @ 2½%	57 707
Value of Christina for purposes of the merger	2 250 585
Less—Portion applicable to Christiana preferred (106,500 shares @ $120 a share = 75,066 Du Pont common shares @ $170¼)	12 780
Value of Christiana applicable to Christiana common	$2 237 805M
Number of Du Pont common shares with equivalent value (@ $170¼ a share)	13 144 229
Number of Christiana common shares outstanding	11 710 103
Number of Du Pont common shares into which each Christiana common share will be converted	1.1225

Exhibit C indicates the effects of the proposed merger on per share earnings, etc., of Du Pont common stockholders and on per share earnings and dividends, and market value of security holdings of Christiana common stockholders. The effects on the Christiana preferred stockholders also are indicated.

8. *Implementation*

Data used in this report to illustrate the effects of the proposed merger are based on market prices, etc., as of May 31, 1972, generally consistent with the data used by the independent financial advisors for purpose of their studies. The actual merger terms will be based on data

reflecting average closing market prices for the five trading days immediately preceding the date on which the proposed merger is considered by the respective Boards of Christiana and Du Pont—now scheduled for July 17, 1972. Therefore, the actual merger terms can be expected to differ slightly from those discussed herein. A supplemental memo will be made available at the time of the July 17, 1972 Board meetings to provide information regarding the actual merger terms and pertinent underlying data.

A definitive Agreement and Plan of Reorganization, with an accompanying Agreement of Merger, is being prepared to reflect the plan of merger outlined herein and to be used as the basic legal documents to effect the merger. Such documents will be submitted for approval of the Executive Committee and the Board in the near future, whereupon these documents will be executed by the parties.

It is recommended that the Executive Committee and the Board approve the proposed plan of merger in principle at this time so that (1) public announcement can be made concerning the intent of Christiana and Du Pont to merge and the terms of the merger, and (2) documents can be filed promptly to request a suitable exemption order from the SEC and a tax ruling from the Internal Revenue Service. The requested exemption order and tax ruling are not likely to be received until fairly late this year (perhaps in October or November) and Christiana and Du Pont stockholder meetings to consider the proposed merger probably will not occur until December—following which the merger can be made effective. Proposal for call of a special meeting of Du Pont stockholders and proxy statement for use in connection with such meeting will be submitted for approval at the appropriate time.

The resolutions in Exhibit D are proposed for adoption by the Board of Directors to approve in principle the proposed plan of merger.

The following resolution is proposed for adoption by the Executive Committee to recommend to the Board the approval in principle of the proposed plan of merger.

RESOLVED, that the Executive Committee hereby recommends to the Board of Directors that it approve in principle the proposed plan of merger of Christiana Securities Company into Du Pont, described in report of July 10, 1972 from the Special Committee of the Board of Directors, by adoption of the resolutions set forth in Exhibit D of the report.

C. B. MCCOY

I. S. SHAPIRO

MURTAUGH EXHIBIT NO. 8

Covington & Burling Memorandum

June 6, 1972

SEC AND JUDICIAL PRECEDENTS RESPECTING THE PROPOSED DU PONT-CHRISTIANA MERGER

We have reviewed and summarized in Attachment A hereto certain Securities and Exchange Commission decisions and judicial precedents which we believe to be pertinent to the proposed du Pont-Christiana merger.

The first item is a summary of relevant SEC decisions under Section 17(b) of the Investment Company Act of 1940, respecting a merger or other reorganization involving a closed-end company substantially all (at least 80 percent) of whose assets consisted of stock of the merger partner. The decisions indicate a relatively narrow range of valuation approaches, ranging from a share-for-share distribution (*Detroit and Cleveland Navig. Co.*) to a 1.5 percent discount attributable to elimination of a tier of corporate income taxation and an inducement to the merger partner's shareholders (*Delaware Realty*).

In addition, we have included summaries of SEC opinions in analogous situations involving a merger where at least one party was a registered closed-end investment company, and one of the two parties to the merger owned a substantial stock interest in the other. These cases involve a number of different situations, and embrace quite varied valuation approaches.

Our review covered all published opinions of the SEC through 1964, the last date on which published opinions are available, and all SEC opinions subsequent to that date as prepared and maintained at the Commission's Washington headquarters. In addition, we reviewed In-

vestment Company Act releases for the last ten years. This review disclosed a number of comparable transactions summarized in published notices of applications. In these cases, no Commission opinion was rendered, but a Commission order was issued approving the transaction, often on delegated authority to the Division of Corporate Regulation. While such cases may be considered as precedents, they do not involve any explanation of the result reached. Hence, we consider them of lesser authority than the full Commission opinions. Decisions of this type are noted in the attachment.

Relevant judicial precedent is sparse. We found only two cases, both involving settlement of litigation instituted by shareholders of a holding company seeking its dissolution. The first involved the reorganization of U. S. Foil and its subsidiary, Reynolds Metals, in 1961. The second and unreported case involved a reorganization subsequently approved by the SEC (*Harbor Plywood*).

Finally, there is included a summary of the Delaware Supreme Court case setting forth the standards to be applied in appraisal proceedings of a closed-end investment company. In at least one case (*Atlas Corporation*) the SEC has considered the statutory appraisal remedy as a relevant factor in determining the fairness of the merger terms.

Covington & Burling

MURTAUGH EXHIBIT NO. 9

Excerpts From Final Judgment, Dated March 1, 1962, as Amended April 26, 1962, in General Motors Divestiture Case.

11

each General Motors annual or special meeting, or other occasion on which General Motors stockholders are entitled to vote, copies of which report shall be made available to the parties hereto. Du Pont, Christiana and General Motors are required to cooperate with the Monitor in the execution of his duties. No information obtained by the Monitor in the execution of his duties hereunder shall be disclosed except to the extent necessary in the preparation and submission of the reports to the Court provided for above and upon written request of the Attorney General of the United States or his authorized representative. The Monitor shall provide all parties hereto with copies of all information submitted in response to such requests. No information obtained by means provided in this Paragraph F shall be divulged by any party, or by any representative of the Department of Justice to any person other than a duly authorized representative of the Department, except in the course of legal proceedings to which the United States of America is a party for the purpose of securing compliance with this Judgment or as otherwise required by law.

VIII

A. Du Pont shall divest itself of all of the General Motors stock specified and itemized in Paragraph B of this Article VIII by distributing such stock to its stockholders (including non *pro rata* distributions in redemption of its own stock), or, in the alternative, by disposing of all such stock by such methods or combination of methods as it may select, such divestiture to commence within ninety (90)

days from the effective date of this Judgment and to be completed not later than thirty-four (34) months from the date on which

12

this Judgment becomes final (appeal time having run or appeal having been completed).

B. The General Motors shares which shall be divested by du Pont pursuant to Paragraph A of this Article VIII are:

(1) The 63,000,000 shares of General Motors stock now owned by du Pont.

(2) Any additional shares of General Motors stock which du Pont may acquire as provided in Article III of this Judgment in respect of the 63,000,000 shares specified in Paragraph B(1) of this Article VIII.

C. The Court makes the following findings with respect to the application of the provisions of Public Law 87-403, enacted February 2, 1962, to this Judgment:

(1) The divestiture by du Pont of all of the General Motors stock which it now has, and which it may acquire as provided in this Judgment, in the manner described in Paragraph A of this Article VIII is necessary and appropriate to effectuate the policies of the Clayton Act.

(2) The application of Section 1111(a) of the Internal Revenue Code of 1954, as amended, is required in order to reach an equitable antitrust order in this proceeding.

(3) The time for the complete divestiture fixed in this order is the shortest period within which such divestiture can be executed with due regard to the circumstances of this particular case.

13

D. In effecting the divestiture required by this Article VIII du Pont shall notify the Assistant Attorney General in charge of the Antitrust Division seven (7) business days in advance of any disposition (except a disposition made by sales on any registered stock exchange or by public offering), or, in the case of any proposed disposition by exchange seven (7) business days in advance of the making of the exchange offer. Such notice shall include, to the extent then known by du Pont, the terms and conditions of the disposition, and the identity of the prospective purchaser or transferee, provided, however, that in the case of disposition by distributions or the making of exchange offers to stockholders, a notice shall be sufficient which includes, to the extent then known by du Pont, the terms and conditions of the distribution or exchange offer and the identity of the class or category of stockholders to whom the distribution or exchange offer is to be made. In the event that the Assistant Attorney General in charge of the Antitrust Division interposes an objection, such disposition or exchange offer shall not be made until it has been first approved by the Court. No information as to any proposed disposition or exchange offer supplied to the Assistant Attorney General in charge of the Antitrust Division pursuant to this Paragraph D shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Department, except in connection with proceedings in which the United States is a party in which objection is made to such proposed disposition or exchange offer, or as otherwise required by law.

E. Du Pont shall, within thirty (30) days after each anniversary date of the effective date of this Judgment,

until it shall have divested itself of all General Motors stock as required by this Article VIII, and within thirty (30) days after the completion of the required divestiture, file with the Clerk of the Court and serve upon the Assistant Attorney General in charge of the Antitrust Division a report showing the number of shares of General Motors stock divested during the period reported and the means of divestiture employed.

IX

A. Christiana shall, within three years from the date on which this Judgment becomes final (appeal time having run or appeal having been completed), divest itself of all the General Motors stock specified and itemized in Paragraph B of this Article IX in the following manner:

(1) Christiana may sell such number of shares of General Motors stock as, in the judgment of its Board of Directors, is necessary to provide net proceeds sufficient to pay the taxes imposed upon the receipt by it of General Motors stock from du Pont and any expenses and taxes incurred upon the sale of the shares to be sold.

(2) Christiana shall distribute to its shareholders (including non *pro rata* distribution in redemption of its own stock) the remaining shares of General Motors stock required to be divested by it.

B. The General Motors shares which shall be divested by Christiana pursuant to Paragraph A of this Article IX are:

(1) The 535,500 shares of General Motors stock now owned by Christiana;

(2) Any shares of General Motors stock received by Christiana from du Pont pursuant to Paragraph A of Article VIII of this Judgment;

(3) Any additional shares of General Motors stock which Christiana may acquire in respect of the General Motors shares specified in Paragraphs B(1) and B(2) of this Article IX as provided in Article III of this Judgment.

C. Each person listed in Appendix A or Appendix C to this Judgment, having signed and filed with the Court a Submission to Jurisdiction substantially in the form of Appendix B to this Judgment, and each other person signing and filing with the Court a Submission to Jurisdiction with respect to a transfer of du Pont, Christiana or General Motors stock by a person listed in Appendix A or Appendix C, is hereby ordered and directed to take the actions specified in, and otherwise to comply with the orders and directions of this Court contained in, such Submission to Jurisdiction.

D. The Court makes the following findings with respect to the application of the provisions of Public Law 87-403, enacted February 2, 1962, to this Judgment:

(1) The divestiture by Christiana of all of the General Motors stock which it now has, or which it may acquire as provided in this Judgment, in the manner described in this Judgment is necessary and appropriate to effectuate the policies of the Clayton Act.

(2) The application of Section 1111(a) of the Internal Revenue Code of 1954, as amended, is required in order to reach an equitable antitrust order in this proceeding.

(3) The time for the complete divestiture fixed in this order is the shortest period within which such divestiture can be executed with due regard to the circumstances of this particular case.

E. In effecting the divestiture required by this Article IX, Christiana shall notify the Assistant Attorney General in charge of the Antitrust Division seven (7) business days in advance of any disposition (except a disposition made by sales on any registered stock exchange or by public offering), or, in the case of any proposed disposition by exchange seven (7) business days in advance of the making of the exchange offer. Such notice shall include, to the extent then known by Christiana, the terms and conditions of the disposition, and the identity of the prospective purchaser or transferee, provided, however, that in the case of disposition by distributions or the making of exchange offers to stockholders, a notice shall be sufficient which includes, to the extent then known by Christiana, the terms and conditions of the distribution or exchange offer and the identity of the class or category of stockholders to whom the distribution or exchange offer is to be made. In the event that the Assistant Attorney General in charge of the Antitrust Division interposes an objection, such disposition or exchange offer shall not be made until it has been first approved by the Court. No information as to any proposed disposition or exchange offer supplied to the Assistant Attorney General in charge of the Antitrust Division pursuant to this Paragraph E shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Department, except in connection with proceedings in which the United States is a party in which objection is made to such proposed

disposition or exchange offer, or as otherwise required by law.

F. Christiana shall within thirty (30) days after each anniversary date of the effective date of this Judgment, until it shall have divested itself of all General Motors stock as required by this Article IX, and within thirty (30) days after the completion of the required divestiture, file with the Clerk of the Court and serve upon the Assistant Attorney General in charge of the Antitrust Division a report showing the number of shares of General Motors stock divested during the period reported and the means of divestiture employed.

X

A. For the purpose of securing compliance with this Judgment and for no other purpose, and subject to any legally recognized privilege, duly authorized representatives of the Department of Justice shall be permitted, upon written request of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice as to time and subject matter to du Pont or Christiana at their respective principal offices

(1) to inspect during office hours all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of du Pont or Christiana relating to any provisions of this Judgment, during which time counsel for du Pont or Christiana, as the case may be, may be present; and

(2) subject to the reasonable convenience of du Pont or Christiana, and without restraint or interference from them, to interview regarding any such provisions any officer or employee of du Pont

MURTAUGH EXHIBIT NO. 15

DRAFT
12/15/72

AGREEMENT

THIS AGREEMENT, dated , 1972, by and between E. I. du Pont de Nemours and Company ("Du Pont"), a Delaware corporation, and the undersigned Stockholder of Christiana Securities Company ("Christiana"),

WITNESSETH:

WHEREAS,

A. Stockholder holds of record or through a nominee, for Stockholder's benefit or in separate trust, agency, custodian and other accounts for the benefit of others, or as pledgee the number of shares of Christiana Common Stock and the number of shares, if any, of Christiana 7% Cumulative Preferred Stock set forth in the Addendum to this Agreement;

B. Such shares of Christiana stock will be converted to shares of $5.00 par value Common Stock of Du Pont ("Du Pont Common Stock") pursuant to an Agreement and Plan of Reorganization between Du Pont and Christiana, including an Agreement of Merger which is an exhibit thereto ("Reorganization Agreement");

C. The Federal securities laws and the rules and regulations thereunder restrict the sale or other disposition of the Du Pont Common Stock to be received pursuant to the Reorganization Agreement by persons who actually or potentially control, are controlled by, or are under common control with Christiana;

D. Stockholder and Du Pont agree that it is impractical to determine with legal certainty whether Stockholder actually or potentially controls, is controlled by, or is under common control with Christiana within the meaning of the Securities Act of 1933, as amended, and the rules and regulations thereunder ("Act"), and therefore, in order to avoid any question concerning a violation of the Act, Du Pont intends to treat Stockholder as though he is restricted by the Act with respect to the sale or other disposition of the Du Pont Common Stock to be received by Stockholder pursuant to the Reorganization Agreement including any shares received upon the occurrence of the contingency specified therein ("Covered Shares"); and

E. Suitable safeguards under the Act require that certificates for the Covered Shares bear a restrictive legend, except that, to facilitate sales in "brokers' transactions" as permitted by Rule 133 under the Act, certificates for the number of shares specified in the Addendum, initially not in excess of 50,000, shall not bear such a legend, and provision shall be made for exchange of legended certificates for unlegended certificates from time to time in the future;

NOW, THEREFORE, Du Pont and Stockholder agree as follows:

1. *No Sales in Violation of Law.*

(a) Stockholder will abide by all restrictions on sale or other disposition of the Covered Shares which may be imposed by the Act. Du Pont and Stockholder understand that, in order to comply with the Act and thus avoid liability thereunder to Du Pont and Stockholder in connection with sale or other disposition of the Covered Shares, during the term of this Agreement such sales or other dispositions should be made only as follows:

(1) In "brokers' transactions" as permitted by Rule 133 under the Act;

(2) Pursuant to a registration statement under the Act; or

(3) In such other manner as is not in violation of the Act, it being understood that Du Pont will not transfer record ownership of shares represented by a certificate bearing the legend provided for in Paragraph 6 that are so sold or otherwise disposed of except upon receipt of an opinion of counsel for Du Pont, or an opinion of counsel for Stockholder, or a "no-action" letter from the staff of the Securities and Exchange Commission ("SEC") and related application, satisfactory in form and substance to Du Pont, to the effect that registration under the Act for such sale or other disposition is not required.

(b) In effecting sales of Covered Shares in such "brokers' transactions" Stockholder shall, to be in compliance with the Act as presently in effect:

(1) Notify his broker that the securities involved are subject to Rule 133 under the Act;

(2) Refrain from directly or indirectly soliciting or arranging for the solicitation of orders to buy in anticipation of or in connection with such transactions;

(3) Make no payment in connection with the execution of such transactions to any persons other than the broker;

(4) Limit each such transaction to a sale or series of sales of Covered Shares which, together with all other sales of Du Pont Common Stock

by Stockholder or on his behalf within the six months preceding such transaction, will not amount to more than the largest aggregate reported volume of trading in Du Pont Common Stock on securities exchanges during any one week within the four calendar weeks preceding the receipt by the broker of the order to execute such transaction.

Sales by any of the following will be deemed to be sales on behalf of Stockholder: (i) any relative or spouse of Stockholder, or relative of such spouse, any one of whom has the same home as Stockholder, (ii) any trust or estate in which Stockholder or any of the persons specified in clause (i) of this sentence collectively own ten percent or more of the total beneficial interest or of which any of such persons serve as trustee, executor or in any similar capacity, (iii) any corporation or other organization other than Du Pont in which Stockholder or any of the persons specified in clause (i) of this sentence are the beneficial owners collectively of ten percent or more of any class of equity securities or ten percent or more of the equity interest, (iv) any donee or pledgee of Covered Shares and (v) any other person or entity with whom Stockholder agrees to act in concert for the purpose of selling such shares, except that Stockholder may use another method of determining sales on behalf of Stockholder in a particular case after having obtained Du Pont's written consent to use such method.

(c) Notwithstanding the foregoing provisions, Stockholder shall be entitled to make sales or other dispositions of Covered Shares in "brokers' transactions" as permitted by Rule 144 under the Act after having obtained Du Pont's written permission to do so, which written permission shall be given only upon demonstration to Du Pont's satisfaction that Stockholder is eligible to make such

sales or other dispositions under Rule 144 and upon execution of a written agreement between Du Pont and Stockholder specifying the procedures to be followed by Stockholder in effecting such sales or other dispositions under Rule 144.

2. *Registration of Covered Shares.*

(a) Du Pont will file with the SEC and use its best efforts to cause to become effective registration statements with respect to sale under the Act of Covered Shares to the extent and in the manner specified in Paragraphs 3 and 4.

(b) No registration statement shall, however, be required to be filed pursuant to this Agreement with respect to any shares of Du Pont Common Stock which, in the opinion of counsel for Du Pont, or as expressed in a "no-action" letter from the staff of the SEC which, together with related application, is satisfactory in form and substance to Du Pont, may be sold without registration under the Act, and in such event the procedures of Paragraph 6(c) shall apply.

(c) Stockholder will furnish Du Pont with such information as Du Pont may reasonably request to enable Du Pont to file any registration statement which Du Pont is required to file pursuant to this Agreement.

3. *Registration Statements.*

(a) Upon Stockholder's request in writing received by Du Pont during Du Pont's normal business hours on March 16 through 20, inclusive, or September 16 through 20, inclusive, of any year, Du Pont will file and use its best efforts to cause to become effective as promptly as practicable a registration statement covering the sale of

such number of Covered Shares as is specified in the request ("Registration Statement"), provided that Du Pont shall not be required to file a Registration Statement under this Paragraph 3 for a firm commitment underwritten offering of Covered Shares. Such request shall be effective only for sales proposed to be made during the calendar month immediately following the date of such request. Any writing received by Du Pont which purports to be a notice satisfying the terms of this Paragraph 3 but which is not received by Du Pont during such time periods shall be void and without effect under this Agreement. Stockholder shall not be entitled to require that a Registration Statement cover only the sale of his shares.

(b) Notwithstanding the limitations of Paragraph 3(a), it is Du Pont policy to be cooperative with its stockholders and, consistent therewith, Du Pont will consider filing at times in a year other than those specified in Paragraph 3(a) a Registration Statement requested by Stockholder for sale of his shares, provided that Du Pont after reasonable inquiry and in its sole discretion is satisfied that registration under the Act (1) is necessary for sale of such shares, and (2) can be effected at the time desired by Stockholder without material disadvantage to Du Pont business interests.

4. *Underwritten Registration Statements.*

(a) If Stockholder, alone or with others with whom Du Pont has entered into agreements similar to this Agreement ("Other Stockholders"), notifies Du Pont in writing that he or they desire to sell Covered Shares having a then current market value of at least $25 million in a firm commitment underwritten offering, Du Pont shall, within five days after receipt of such notification, notify the Other Stockholders in writing that such an offering is

proposed. Other Stockholders desiring to sell shares in such offering shall be permitted to participate therein, provided that such Other Stockholders' written notifications to that effect are received by Du Pont within ten days from the date of Du Pont's notifications to such Other Stockholders. Stockholder shall have an identical right with respect to the Covered Shares, subject to identical conditions with respect to notification, to participate in any such offering proposed by Other Stockholders.

(b) After the close of the ten-day notification period described in Paragraph 4(a), Du Pont shall promptly file and use its best efforts to cause to become effective a registration statement ("Underwritten Registration Statement") covering the shares to be included in such offering, provided, however, that

(1) Du Pont shall have the right to delay the filing and effectiveness of an Underwritten Registration Statement if in the opinion of its investment bankers such offering would interfere with then current financing plans of Du Pont;

(2) Du Pont shall have the right to refuse to proceed with the registration of any shares that are proposed to be sold under this Paragraph 4 in any manner other than a firm commitment underwriting to be managed by Morgan Stanley & Co. or any other investment banking firm acceptable to Du Pont;

(3) Du Pont shall not be required to permit any Underwritten Registration Statement to become effective during any calendar year in which any previously filed Underwritten Registration Statement provided for in this

Paragraph 4 or in the corresponding paragraph in the similar agreements with the Other Stockholders became effective; and

(4) Du Pont shall not be required to permit any Underwritten Registration Statement to become effective while a Registration Statement provided for in Paragraph 3 or in the corresponding paragraph in the similar agreements with the Other Stockholders is in effect.

(c) If Stockholder declines to participate in an underwritten offering proposed in accordance with Paragraph 4(a) by Other Stockholders, then Stockholder shall have no further rights under this Paragraph 4 during the calendar year during which the Underwritten Registration Statement for such offering be[illegible]me effective.

(d) Du Pont will cooperate with the managing underwriter of the firm commitment underwritten offering provided for in this Paragraph 4, and Du Pont will use its best efforts to satisfy the reasonable requirements of such managing underwriter, so that the offering may be completed.

5. *Suspension, Withdrawal or Termination of Registration.*

(a) Du Pont may withdraw any registration statement filed pursuant to this Agreement, suspend or terminate the distribution thereunder or deregister any unsold shares of Du Pont Common Stock registered thereunder if it is advised by the staff of the SEC that they intend to recommend that the SEC commence stop order proceedings pursuant to Section 8 of the Act with respect to any such registration statement. Du Pont will use its best efforts as promptly as practicable to take corrective action to permit sales pursuant to such registration statement.

(b) Stockholder will, upon notice from Du Pont, suspend all sales of Covered Shares pursuant to any registration statement filed pursuant to this Agreement for such number of days as is necessary to permit Du Pont to take such action as shall be necessary, in the opinion of counsel for Du Pont, to comply with the Act.

(c) Du Pont may withdraw any Registration Statement filed pursuant to Paragraph 3 of this Agreement, or suspend or terminate the distribution thereunder and deregister any unsold shares registered thereunder after April 30, in the case of a Registration Statement filed pursuant to notice given to Du Pont during March 16-20, and after October 31, in the case of a Registration Statement filed pursuant to notice given to Du Pont during September 16-20, provided that the date on which Du Pont shall be permitted to suspend or terminate the distribution or deregister shares pursuant to this Paragraph 5(c) shall be extended beyond April 30 or October 31, as the case may be, by that number of days, not in excess of ninety days, during which Stockholder's sales were suspended as provided for in Paragraph 5(b).

6. *Legend on Stock Certificates.*

(a) Stock certificates representing a portion of the Covered Shares, as indicated in the Addendum, shall bear the following legend:

> "The shares represented by this certificate have not been registered under the Securities Act of 1933, as amended, and are subject to certain restrictions with respect to the sale or other disposition thereof under the provisions of such Act. The Corporation will not transfer record ownership of the shares represented by this certificate other than for sales pursuant to an effective registration statement under such Act or upon receipt of an opinion of counsel, or a "no-action" letter from the staff of the SEC, and related application, satisfactory in form and substance to the Corporation to the effect that registration is not required under such Act."

(b) If Stockholder or any of the other persons or entities named in the Addendum receives additional shares of Du Pont Common Stock upon the occurrence of the contingency specified in the Reorganization Agreement, all of such additional shares shall bear the legend set forth in Paragraph 6(a), except that such legend shall not be placed on any shares which, in the opinion of counsel for Du Pont, or as expressed in a "no-action" letter from the staff of the SEC which, together with related application, is satisfactory in form and substance to Du Pont, may be sold or otherwise disposed of without registration under the Act.

(c) Du Pont shall from time to time issue in exchange for stock certificates bearing such legend unlegended certificates (1) upon written request by Stockholder that unlegended stock certificates representing shares of Du Pont Common Stock held by Stockholder be delivered to a broker, dealer or underwriter for sale and delivery pursuant to a registration statement as provided for in Paragraphs 3 and 4; or (2) at any time, if in the opinion of counsel for Du Pont, or in the opinion of counsel for Stockholder, or as expressed in a "no-action" letter from the staff of the SEC, including related application, satisfactory in form and substance to Du Pont, such shares represented by such certificates may be sold or otherwise disposed of without registration under the Act. Stockholder will furnish Du Pont with such information as coun-

sel for Du Pont may reasonably request in connection with such issuance of unlegended certificates.

(d) Stockholder will notify Du Pont in writing within ten days after effecting any sale or other disposition of Covered Shares bearing the legend provided for in Paragraph 6(a), other than sales pursuant to an effective registration statement as provided for in this Agreement. Such writing shall include the number of shares sold or disposed of, a brief description of the transaction, and the name of the transferee if known to Stockholder. Stockholder will supply such additional information as Du Pont shall reasonably request after receipt of the notification.

7. *Expenses.* Stockholder shall pay a percentage, determined by dividing the total number of shares registered in a given registration into the number of shares registered by Stockholder in such registration, of all expenses of any registration which includes his Covered Shares. Such expenses shall include, without limiting the generality of the foregoing, SEC filing fees, all required Blue Sky filing or qualifying fees, underwriting commissions and reasonable fees and expenses of accountants, attorneys, and others performing services in connection with such registration, provided that such expenses shall not include any charge for time expended by any employee of Du Pont nor any expenses incurred which Du Pont would have incurred in the absence of such registration.

8. *Indemnification.*

(a) Du Pont will indemnify and hold harmless Stockholder with respect to shares of Du Pont Common Stock covered by any registration statement provided for in this Agreement or the prospectus as from time to time supplemented and amended against any and all losses,

claims, damages, liabilities and expenses arising out of any untrue statement or alleged untrue statement of a material fact in the registration statement or any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, unless any such untrue statement or omission or alleged untrue statement or alleged omission was made in conformity with written information given to Du Pont by or on behalf of Stockholder; and Du Pont hereby extends the same indemnity and hold-harmless protection to each officer and director of Stockholder and to each other person, if any, who controls Stockholder within the meaning of the Act.

(b) Stockholder will indemnify Du Pont and hold it harmless with respect to shares of Du Pont Common Stock covered by any registration statement provided for in this Agreement or the prospectus as from time to time supplemented and amended against any and all losses, claims, damages, liabilities and expenses arising out of any untrue statement or alleged untrue statement of material fact or any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, but only to the extent that such losses, claims, damages, liabilities and expenses arise out of an untrue statement or omission or alleged untrue statement or alleged omission made in conformity with written information given to Du Pont by or on behalf of Stockholder; and Stockholder hereby extends the same indemnity and hold-harmless protection to each officer and director of Du Pont and to each other person, if any, who controls Du Pont within the meaning of the Act.

(c) Du Pont and Stockholder each severally extend the same indemnity and hold-harmless protection re-

spectively extended by Paragraphs 8(a) and 8(b) of this Agreement to any underwriter named as such in any registration statement filed pursuant to this Agreement, provided that such underwriter shall be entitled to such protection only if such underwriter agrees to extend such protection, jointly and severally as to the persons receiving such protection, to Du Pont and Stockholder, and to each officer and director of Du Pont or Stockholder, and to each other person, if any, who controls Du Pont or Stockholder within the meaning of the Act, with respect to written information given to Du Pont or Stockholder by or on behalf of such underwriter for use in preparing such registration statement; and Du Pont and Stockholder each severally extend such indemnity and hold-harmless protection to each officer and director of such underwriter and to each other person, if any, who controls such underwriter within the meaning of the Act.

9. *Duration of Agreement.* This Agreement, including Du Pont's obligation to file any registration statement pursuant thereto, shall terminate when, in accordance with the provisions of Paragraph 6, the legend shall have been removed from all of the legended Du Pont Common Stock indicated in the Addendum.

10. *Third Parties and Successors.*

(a) This Agreement shall inure to the benefit of such persons or entities other than Stockholder who may be named in the Addendum with respect to the shares of Du Pont Common Stock they will receive pursuant to the Reorganization Agreement, provided that such persons or entities agree in writing to be bound by the terms of this Agreement.

(b) This Agreement shall be binding upon, and inure to the benefit of, Du Pont, Stockholder and their respective heirs, assigns, executors, administrators, and successors in interest, provided that any person or other entity who acquires in any public offering (whether or not a registration statement is required) any of the Covered Shares or who acquires in any transaction any unlegended shares of Du Pont Common Stock shall not be bound by or entitled to any benefit of the provisions of this Agreement with respect to such shares.

11. *Notices.* Notices to be given to Du Pont pursuant to this Agreement shall be in writing and shall be given to Treasurer, E. I. du Pont de Nemours and Company, 1007 Market Street, Wilmington, Delaware 19898. Notices to be given to Stockholder pursuant to this Agreement shall be sent to the address specified in the Addendum. Changes of address shall be similarly communicated.

12. *Applicable Law.* This Agreement shall be governed by the law of the State of Delaware.

13. *Adjustment of Number of Shares.* The number of shares to which this Agreement is applicable shall be appropriately adjusted in the event of any division, combination or modification of Du Pont Common Stock, whether through recapitalization, stock split-up, merger, consolidation or otherwise, so that, after such adjustment, there shall be substituted for the number of shares to which this Agreement is applicable before such adjustment, the number of shares of such stock which a holder of such number of shares would hold after the event which required the adjustment.

14. *Entire Agreement.* This Agreement, including the Addendum, expresses the entire understanding of the parties hereto with respect to the subject matter hereof.

15. *Counterparts.* This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

16. *Headings and "Whereas" Clauses.* The headings and the "Whereas" clauses herein shall not be deemed a part of this Agreement.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed as of the day and year first above written.

E. I. DU PONT DE NEMOURS AND COMPANY

By _____

ATTEST: _____

_____

Stockholder

ADDENDUM TO AGREEMENT DATED , 1972
BETWEEN E. I. DU PONT DE NEMOURS AND COMPANY
AND

Name and Mailing Address	*Number of Shares of Christiana Securities Company Stock Held* •	*Number of Shares of Du Pont Common Stock to Be Received Pursuant to the Reorganization Agreement*	
		Unlegended	*Bearing Legend Set Forth in Paragraph 6*

DATED: , 1972

E. I. DU PONT DE NEMOURS AND COMPANY

By .....

ATTEST: .....
Assistant Secretary

.....
Stockholder

• Listed in this column is the number of shares held beneficially of record or through a nominee by the person or entity named in the first column of this Addendum. No shares held of record by Wilmington Trust Company or its nominees are included in this Addendum.

COLLINS EXHIBIT NO. 1

[Letterhead of]

E. I. du Pont de Nemours & Company
Incorporated
Wilmington, Delaware 19898

Executive Offices

October 4, 1972

To the Stockholders of
E. I. du Pont de Nemours and Company

The Boards of Directors of the Du Pont Company and Christiana Securities Company approved in principle on July 17, 1972 a plan under which Christiana would be merged into the Du Pont Company. The proposed merger is subject, among other things, to the receipt of an order from the Securities and Exchange Commission (the Commission) exempting the merger transaction from certain restrictions of the Investment Company Act of 1940 (the Act).

On July 20, 1972 the Du Pont Company and Christiana filed with the Commission a joint application for an order of exemption under the Act with respect to the proposed merger. In connection with such application and pursuant to the requirements of the Act, the Commission issued on October 3, 1972 a "Notice of Filing of Application under Sections 17(b), 17(d) and 6(c) and Rule 17d-1 for an Order Exempting Transactions between Affiliates Incident to a Merger." In accordance with understanding reached with the Staff of the Commission and in the interest of advising stockholders of the Du Pont Company regarding consideration of the proposed merger

by the Commission, a copy of such Notice is enclosed for your information.

Stockholders of the Du Pont Company are not required to take any action with respect to the proposed merger at this time. It is anticipated that a meeting of stockholders will be called later this year, following receipt of the requested order of exemption under the Act, for the common stockholders to act upon the proposed merger. Prior to such meeting you will receive a proxy statement setting forth comprehensive information concerning the proposed merger.

C. B. McCoy
Chairman and President

COLLINS EXHIBIT NO. 1A

Administrative Proceeding
File No. 3-3928

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
In the Matter of
CHRISTIANA SECURITIES COMPANY
E. I. DU PONT DE NEMOURS AND COMPANY
Wilmington, Delaware 19898
(812-3224)
Investment Company Act of 1940

AFFIDAVIT OF RAYMOND J. HARTER

State of New York }
County of New York } ss

I, Raymond J. Harter, after being duly sworn, state the following:

During the course of the proceedings in this matter, I was asked to supply additional information as to the procedure followed by Manufacturers Hanover Trust Company with respect to a letter dated October 4, 1972, sent to the stockholders of E. I. du Pont de Nemours and Company, which included as an attachment a "Notice of Filing of Application" issued by the Securities and Exchange Commission. As I testified in this matter, the Bank holds approximately 258,000 shares of Du Pont stock in approximately 860 separate supervisory accounts. Of this number, the Bank is the sole trustee with no requirement of consultation on proxy matters with any other person as to 275 accounts. The Bank has an additional 70 accounts where it is sole trustee but is limited in the voting of proxies. In addition, there are 125 non-fiduciary supervisory accounts where the voting of proxies is at the direction of the beneficial owner. There are 390 accounts in which there is a co-fiduciary. Even where there is a co-fiduciary, however, the Bank has sole discretion for full voting rights in a total of 29 such accounts. As to such accounts, it would not normally send proxy material or other communications to shareholders. In the remaining 361 accounts, where the Bank has either limited or no voting authority, it would normally send proxy material to the co-fiduciary. The Du Pont letter of October 4, 1972, was circulated to portfolio managers. Since the SEC Notice of Application did not require any shareholder action, the decision was reached not to send it to any co-fiduciary.

In addition, the Bank has approximately 540 custody accounts holding Du Pont stock; it transmitted a copy of the October 4, 1972 letter and accompanying Notice to each of these accounts.

/s/ RAYMOND J. HARTER
Raymond J. Harter

Subscribed and sworn to before me this 13th day of February, 1973.

Notary Public

(SEAL)

[Letterhead of]

RASSIEUR, LONG, YAWITZ & SCHNEIDER
700 BOATMEN'S BANK BUILDING
314 NORTH BROADWAY
ST. LOUIS, MISSOURI 63102

October 26, 1972

AIR MAIL

Secretary, Securities & Exchange Commission
Washington, D. C. 20549

Dear Sir:

I request a hearing in the matter of Christiana Securities Company merger with E. I. du Pont de Nemours & Company.

The nature of my interest is that I have been a common stockholder of du Pont for more than ten years and I also represent Mrs. Lee G. Collins, who has been a common stockholder for more than seven years.

I believe that the proposed merger of the two corporations is unfair to the common stockholders of du Pont.

The issue of fact which I controvert is the valuation of Christiana at 97½% of the adjusted value of its net assets as set forth in the notice sent to the du Pont stockholders.

I have not had an opportunity to determine whether the net asset value of Christiana as shown in the notice, $2,223,425,827.00, was actually correct, but assuming without conceding that said figure was correct, the valuation of Christiana common stock for merger purposes was incorrect.

The notice, dated October 3, 1972, filed with the Securities and Exchange Commission stated that a special

board of du Pont directors selected an investment banking firm to advise on the proposed merger terms. It further states that this special committee consisted of two directors with no director, officer or employee relationship with Christiana.

In the notice of the annual meeting of du Pont, dated March 8, 1972, du Pont Company denied that Christiana was its parent, although Christiana owned more than one-fourth of the outstanding common stock of du Pont, and no other du Pont single stockholder held anywhere near this amount. As a practical matter, I suggest that no one could have been elected to the present board of du Pont without the approval of Christiana Securities Company and, therefore, the special committee of du Pont directors mentioned in the present application were elected to the board of du Pont with the support of Christiana Securities Company.

Furthermore, in the du Pont Proxy Statement, dated March 8, 1972, it was shown that the stock holdings of the entire Board of Directors of du Pont were greater in Christiana Securities Company common stock than they were in du Pont common stock.

The very fact that historically Christiana common stock had sold on the open market at a discount ranging from 20% to 25% is better proof of its value than the appraisal made at the direction of certain directors of du Pont.

While the discount of 20% to 25% prevailing for Christiana has been reflected in sales of a relatively small number of shares, compared to the total issued shares, nevertheless it is apparent that in the proposed merger this discount should be recognized more than it has been. I state that on behalf of the common stockholders of du Pont the discount should be at least 10% so that Christiana

should be valued at 90% at the adjusted value of its net assets.

Very truly yours,

/s/ RICHARD J. COLLINS, JR.
Richard J. Collins, Jr.

RJC: es
cc: Christiana Securities Company
Wilmington, Delaware 19898
E. I. du Pont de Nemours and Company
Wilmington, Delaware 19898

I, RICHARD J. COLLINS, JR., hereby certify that I sent a copy of the above request by Air Mail to Christiana Securities Company and E. I. du Pont de Nemours and Company, both located in Wilmington, Delaware 19898.

/s/ RICHARD J. COLLINS, JR.

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

—

September Term, 1975

—

No. 75-1100

Richard J. Collins, Jr., Petitioner,

v.

Securities and Exchange Commission, Respondent.

No. 75-1262

Lewis C. Murtaugh, Trustee for Emanuel and Helen Steib, etc., Petitioner,

v.

Securities and Exchange Commission, Respondent.

No. 75-1263

Lewis C. Murtaugh, Trustee for Emanuel and Helen Steib, etc., Petitioner,

v.

Securities and Exchange Commission, Respondent.

—

PETITION FOR REVIEW OF ORDER OF THE SEC

———

ORDER

———

Before: HEANEY, STEPHENSON, Circuit Judges,
SMITH, Senior District Judge

Professor Roger B. Upson, Associate Dean of the University of Minnesota College of Business Administration, has been appointed by this Court as a contract consultant in the office of the Circuit Executive for the United States Court of Appeals for the Eighth Circuit. Professor Upson will assist the Court in understanding the record made in the above entitled case by the Securities and Exchange Commission, and will prepare reports and memoranda for the Court in connection with that function. His duties will not include giving opinions as to the fairness and reasonableness of the merger.

Reports made to the Court by Professor Upson will be filed with the Clerk of Court and copies of the reports will be furnished by the Court to counsel for the parties. The parties will be given an opportunity to respond to reports submitted by Professor Upson by filing with the Clerk of this Court a response thereto within five (5) days after the receipt of the report from the Clerk of Court.

The parties will not be required to bear the expenses incurred by the Court in retaining Professor Upson.

Dated: October 9, 1975

REPORT TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT BY ROGER B. UPSON ON QUESTIONS ASKED BY THE COURT

December 9, 1975

CONTENTS

		Page
1.	What literature is there on the subjects of premiums paid in mergers, the value of control, and the concept that an arms-length merger could benefit one party substantially but provide little benefit to the other party?	1
2.	Explain the stock purchase from dividends procedure suggested by Kidder, Peabody, and Co.	9
3.	Summarize the literature on the relationship between net asset value and market price for closed-end investment companies.	11
4.	What literature is there on the impact on share price of the trading of a large block of stock?	13
5.	Has the volume of trading in Christiana increased since the announcement of the possible merger and if so, is this evidence of pressure on the Du Pont family to sell?	15
6.	What are the discounts from net asset value at which Christiana common stock has sold between 1967 and April 1972, excluding dates for the period of the Hercules Co. exchange offer?	19
7.	Analyze the numbers of shares that will theoretically be available for sale under the provisions of the last paragraph on page 3 of Amendment No. 6 to the Application for Approval of the merger.	20
8.	What is the Federal income tax basis to present holders of Christiana common stock?	24
9.	What literature is there on the relevance of book value as a determinant of value?	25
10.	Why is the capital gain tax rate shown at 30 percent in several places?	26
11.	Analyze the concepts of "dispersal of stock" and "control of management" presented in the testimony of Messrs. McCoy and Shapiro and in the Findings and Opinion of the Commission.	27

12. Analyze the estimates of taxes in a section 333 liquidation in terms of the discount applicable to Christiana's net asset value. 33

13. What was the valuation of the Christiana stock, as a percentage of net asset value, in the cases of *Paulina du Pont Dean v. Commissioner,* 19 TCM 281 (1960), and *Mary A. B. du Pont, et al., Executors v. Commissioner of Internal Revenue,* 38 U. S. Bd. Tax Appeals 926 (1938)? 36

14. How has Du Pont been affected by the Investment Company Act of 1940? 38

15. Estimate the amount realizable by a hypothetical Christiana common stockholder who sells stock on April 28, 1972, or receives shares of Du Pont representing 97.5 percent or 87.9 percent of net asset value in a merger and sells the Du Pont shares at April 28, 1972 prices, assuming a 35 percent capital gains tax rate and a $25 per share cost for tax purposes. 39

16. Evaluate the advantages and disadvantages of the proposed merger to the common stockholders of Christiana and Du Pont, as listed in Exhibit 5 of Kidder Peabody's report. 40

17. What are the effects upon Christiana common stock and Du Pont common stock of various discount values and dividend policies? 48

1

1. What Literature Is There on the Subjects of Premiums Paid in Mergers, the Value of Control, and the Concept That an Arms-Length Merger Could Benefit One Party Substantially But Provide Little Benefit to the Other Party?

1.1 Paul J. Halpern, "Empirical Estimates of the Amount and Distribution of Gains to Companies in Mergers," *The Journal of Business,* Vol. 46, No. 4 (October 1973) pp. 554-575.

Professor Halpern analyzes 77 mergers occurring between 1950 and 1965. These were mergers of non-regulated companies involving the exchange of common stock where both stocks were listed on the New York Stock Exchange. The data for his analysis come from the files of the Center for Research in Security Prices at the University of Chicago, cross-checked against the *Wall Street Journal,* Moody's, and listing statements of the New York Stock Exchange.

The paper presents estimates of gains to both the acquired and the acquiring companies. These gains are based on the change in the total market value of the common stock of each company between the time the merger was first considered (the base date) and the actual merger date. The determination of the base date rests on a statistical analysis of stock prices. That analysis concludes that most companies have the news of a forthcoming merger discounted from 7 months before the formal announcement date. Thus, the end of the eighth month before the announcement date is used as the base date.

2

Between the base date and the merger date both the stock market in general and stocks in the merging companies'

industries may rise, fall, or remain stable. Such general market movements need to be removed in an analysis of gains to merging companies, so as to isolate the impact of the merger. Professor Halpern uses regression analysis to determine the size of both general market movements and movements of stocks in the merging companies' industries. In the tables in the paper, "unadjusted" gains are those before removal of the market and industry effects, while "adjusted" gains are after the deduction of these effects, while

The principal conclusion is that:

"the larger company does not give away everything in a merger; the mean adjusted gain to the larger company is positive and the total adjusted gain is divided evenly, on average." (p. 573).

Assuming the relevancy of this study to the proposed Du Pont-Christiana merger, the merger terms would reflect an even division of the gains accruing to both parties. Because the merger has not been consummated, the gains cannot be measured in precisely the same way as in Professor Halpern's study. Appendix A to this answer shows the basis used for an illustration of the application of Professor Halpern's method to the proposed Du Pont-Christiana merger. Based on Appendix A, an exchange ratio of 1.001 shares of Du Pont per share of Christiana would reflect an even division of the gains resulting from the merger. This compares with the proposed exchange ratio of 1.123.

3

The author also observes that although the total adjusted gain was divided evenly, on average, the size of the gain relative to the size of the smaller company was larger than the size of the gain relative to the size of the large company. Thus, Halpern's findings are broadly consistent

with other studies that focus on the percentage gain to the selling, or smaller company. These studies have found substantial premiums (unadjusted gains) accruing to selling companies.

APPENDIX A

COMPUTATION OF EXCHANGE RATIO ASSUMING AN EVEN DIVISION OF THE GAIN.

Base Date

Halpern uses the end of the eighth month before the announcement date as the base date. In the proposed Du Pont-Christiana merger, April 28, 1972 was the announcement date. Thus the base date would be August 31, 1971.

Merger Date

Because the Du Pont-Christiana merger has not taken place, there is no merger date. However, the merger terms were announced and a three month period elapsed before the merger was challenged. Thus, as a proxy for actual merger data, the average of data for July 18, 1972 (the day after the terms were announced) and Oct. 27, 1972 (the day before the challenge to the merger was announced in the Wall Street Journal) will be used.

4

Computation of Adjusted Gain

To remove the impact of changes in the general level of stock market prices, the changes in Christiana and Du Pont common stock prices will be adjusted by changes in the Dow Jones Industrial Index.

STOCK MARKET DATA

Date	*Christiana*	*Du Pont*	*Dow Jones Index*
August 31, 1971	$131.5	$151.75	898.07
July 18, 1972	$168	$162.75	911.72
Oct. 27, 1972	$182	$168.875	946.42

Source: Applicants' Joint Exhibit 7.

This is less precise than the procedure used by Halpern, but is based on data available in the record.

	Christiana	*Du Pont*	*Total*
Market value at base date [a]	$1,539,878,500	$5,163,853,700	
Adjusted increase in value [b]			
through July 18, 1972	397,964,960	291,399,360	689,364,320
through Oct. 27, 1972	482,481,040	289,163,400	771,644,440

5

a. Based on number of shares outstanding times closing price shown above. 11,710,103 × $131.5 for Christiana and 34,028,690 × $151.75 for Du Pont. In Du Pont's case, the shares owned by Christiana have been excluded from the total because they will be retired in the proposed merger, and the gain on those shares is subsumed in the Christiana shares.

b. These increases are the result of multiplying the market value at base date by the adjusted change in stock prices, and deducting the base date value:

	Unadjusted Changes			*Adjusted Changes*	
	Christiana (1)	*Du Pont* (2)	*Dow Jones* (3)	*Christiana* (1)/(3)	*Du Pont* (2)/(3)
July 18, 1972 divided by Aug. 31, 1971	1.278	1.072	1.015	1.258	1.056
Oct. 17, 1972 divided by Aug. 31, 1971	1.384	1.113	1.054	1.313	1.056

The estimated adjusted gain is the average of the totals shown above, i.e. $730,504,350.

6

Exchange Ratio

If the estimated adjusted gain were split evenly between the two companies, the exchange ratio would be 1.001, as shown below.

Computation of Exchange Ratio

Market value of Du Pont at base date	$5,163,853,700
add half of adjusted gain	365,252,170
	$5,529,105,800
Divide by number of shares outstanding	34,028,690
equals adjusted Du Pont price	$162.48
Market value of Christiana at base date	$1,539,878,500
add half of adjusted gain	365,252,170
	1,905,130,600
divide by adjusted Du Pont price	$162.48
equals number of Du Pont shares to be exchanged for Christiana shares	11,725,060
divide by number of Christiana shares outstanding	11,710,103
equals exchange ratio	1.001

7

It is important to note that this is an illustration of the application of Professor Halpern's method to the proposed Du Pont-Christiana merger. The limitations of the illustration are

(1) the merger never having occurred, there is no merger date. The exchange ratio calculated above is sensitive to the choice of data. For example, if Oct. 17, 1972 had been used by itself as the proxy for the merger date, the exchange ratio based on an even division of the estimated adjusted gain of $771,644,440 would have been 1.008, rather than 1.001 shown above.

(2) the removal of general market effects is based on a simpler procedure than that used by Professor Halpern, but is based on data available in the record.

1.2 J. Fred Weston, "The Determination of Share Exchange Ratios in Mergers," in W. W. Alberts and J. E. Segall, (editors), *The Corporate Merger* (University of Chicago Press, 1974), pp. 117-138.

Although most of this chapter is concerned with mergers of firms in different industries, there are two generally applicable remarks.

First, the economic basis for a merger rests on the idea that both parties may be able to gain from the transaction. Thus, the act of merging enables a benefit to be realized which could not be realized if the parties stayed independent. (p. 131).

Second, the valuation problem in mergers is to apportion the additional benefit, arising out of the merger, between the parties to the merger. This could vary from a situation where all the increase in value goes to one party, to a situation where the benefits are shared. The outcome would depend on the contributions of the parties and their relative need to go through with the merger. (p. 131).

8

1.3 Samuel Schwartz, "Merger Analysis as a Capital Budgeting Problem," in Alberts and Segall, *op. cit.* pp. 139-150.

Schwartz analyzes the factors involved in setting the maximum price a company can afford to pay to acquire another. The introductory section (pp. 139-140) provides a useful framework for analyzing this problem. His first proposition (foot of p. 139) introduces tax considerations as a relevant factor in price-setting. This is illustrated at pp. 147-148.

Tax considerations are relevant to the proposed Du Pont-Christiana merger. One of the benefits to Christiana

stockholders is that a tax-free exchange of Christiana stock for Du Pont stock would eliminate any future capital gains tax liability on Christiana because the Du Pont stock it holds has a low tax cost basis relative to the market price (see question 8, later). In addition, the proposed merger would remove the intercorporate dividend tax which Christiana pays on dividends it receives.

9

2. Explain the Stock Purchase From Dividends Procedure Suggested by Kidder, Peabody, and Co.

Kidder, Peabody suggests a procedure that is now often available for holders of common stock in closed-end investment companies. Stockholders can elect to receive dividends in cash or stock. The dividends of those electing stock are paid to a trustee. The trustee is authorized by the electing stock-holders to use cash received from dividends to buy common stock in the company and remit the stock to the stockholders. The trustee may buy in the open market or from the company at net asset value, whichever is lower. The alternatives of cash or stock have the same income tax liability to the stock-holders. The procedure is described in Division's Exhibit 12, pp. 11-12, Kidder, Peabody, and in Mr. Midgley's testimony, A363-370.

The purpose of this procedure is to attempt to bring the market price closer to the net asset value, by introducing additional demand for the Christiana stock. Kidder, Peabody's report states:

". . . it is our judgment that such a plan could significantly reduce, if not eliminate, the market discount over a period of time." (Division's Exhibit 12, p. 12, Kidder, Peabody).

In the Kidder, Peabody report, it is stated that if 50 percent of the Christiana shareholders were to choose such a procedure, the average daily volume of sales of Christiana stock would be doubled. This can be confirmed reasonably closely as follows:

10

Total dividends on Christiana common stock, 1971 (= 11,710,103 common shares ×$5.25 per share; total is also shown in Joint Exhibit 1B, Exhibit 6, Morgan Stanley).	$61,478,000
50 percent of total dividends	$30,739,000
Divide by 52 for amount per week	$ 591,135
Compare average weekly dollar volume for Christiana, January through June 1972 (Division's Exhibit 12, unnumbered page, Kidder, Peabody).	$ 628,232

This calculation assumes that "50 percent of Christiana Shareholders" is interpreted as 50 percent of outstanding stock, and that prices and volumes in the first six months of 1972 are an appropriate comparison.

However, the 50 percent participation rate in this plan is based on an estimate. Mr. Midgley testified:

"We just guesstimated 50 percent . . . Christiana could have tried the plan. . . We will never know until they do what the response would have been." (A. 364).

The Kidder, Peabody report indicated that two plans of this type "enjoyed participations in excess of 50% in 1971" (Division's Exhibit 12, p. 12). Mr. Midgley's testimony refers to the plans of Madison Fund and Paul Revere Fund. The year end relationship between market price and net asset value for these two funds shows discounts from net asset value varying between 3 and 39 percent for the years 1971 through 1974, according to Table 5 in Weisenberger Services Inc., *Investment Companies* (1975 edition), p. 52.

11

3. Summarize the Literature on the Relationship Between Net Asset Value and Market Price for Closed-End Investment Companies.

Closed-end investment company common stocks have sold at both premiums and discounts from net asset value. The average discount or premium on a sample of such stocks of investment companies with diversified portfolios has varied from a high of more than an 8 percent premium in 1970 to a low of about a 22 percent discount in 1974, according to data in Weisenberger Services, Inc., *Investment Companies* (1975 edition), p. 22.

The subject of discounts and premiums from net asset value is analyzed infrequently in the literature, and then usually in the context of closed-end funds with diversified portfolios. For example, Burton G. Malkiel in *A Random Walk Down Wall Street* (New York: Norton and Co, 1973) states that relatively low average returns on assets, unrealized capital gains in fund portfolios, and lack of sales effort by stockbrokers are possible explanations for discounts (p. 219). A lengthier analysis is by Kenneth J. Boudreaux, "Discounts and Premiums on Closed-End Mutual Funds: A Study in Valuation," *Journal of Finance*, vol. 28, no. 2, May 1973, pp. 515-522. Based on data for 1960-1970 for the stocks and assets of the thirteen closed-end investment companies that invested only in marketable securities, Boudreaux concludes that discounts and premiums are related to market expectations of the future performance of the funds.

12

In the SEC file and the joint appendix, there are some materials on the discount from net asset value experienced by Christiana, a non-diversified, closed-end fund. The Covington and Burling memo, "Factors to be considered in report of investment bankers", (Division's Exhibit 1, Appendix A, Attachment 2), draws attention to Christiana's discount. It states, "The investment bankers report should consider all pertinent factors explaining the existence of this market discount." The Kidder, Peabody report summarizes such factors explicitly (Division's Exhibit 12, p. 7):

(a) unrealized capital gains liabilities
(b) thin market
(c) Federal income tax on intercorporate dividends
(d) lack of investor familiarity.

Morgan Stanley (Applicants' Joint Exhibit 1B, Exhibit 2, p. 6) lists

(a) Federal income taxes and expenses payable by Christiana
(b) large unrealized capital gains
(c) relatively limited market for Christiana common stock.

The Findings and Opinion of the SEC (A. 15-42) refer to the discount and suggest that "the relative illiquidity of an investment in Christiana" affects the discount (A. 36). Finally, Mr. Harter testified that the discount reflected primarily the capital gains tax liability. (A. 377).

13

4. What Literature Is There on the Impact on Share Price of the Trading of a Large Block of Stock?

This subject was investigated in the *Institutional Investor Study Report of the Securities and Exchange Commission* (92nd Congress, 1st Session, House Document 92-64; Washington, U. S. Government Printing Office, 1971), chapter eleven, "Characteristics and Price Impacts of Block Trading in Common Stock Listed on New York Stock Exchange," pp. 1537-1828. The results are presented in a more compact form in Alan Kraus and Hans R. Stoll, "Price Impacts of Block Trading on the New York Stock Exchange," *Journal of Finance*, vol. 27, no. 3, June 1972, pp. 569-588.

The study is based on 1,565 block trades occurring between July 1968 and September 1969. Only trades of more than $1 million were used, and included the largest 27 NYSE stocks and a random sample of 198 of the remaining stocks. The impacts are measured relative to a market index.

Conclusions on price impacts on the day of the block trade are as follows. When a block trade is initiated by a buyer, the stock price tends to rise and stay at the new level. On the average, the price rises 1.4 percent between the closing on the day prior to the trade, and the trade itself. When a block trade is initiated by a seller, the stock price drops and then rises. Between the prior day's closing and the block trade, the price declines 1.81 percent, but then recovers 0.7 percent by the end of the day, on average.

14

When the study is extended to 20 trading days before and after the block trade, the trades initiated by buyers are accompanied by a 4 percent price rise before the trade and no decline after the trade. For trades initiated by sellers, there is a 1 percent drop in the 20 days preceding the trade and an offsetting rise in the succeeding days.

From the viewpoint of the initiating buyer and seller, these price impacts would be amplified by a commission,

approximated by Kraus and Stoll at 0.6 percent. By way of comparison, they noted that the average cost of a secondary distribution, based on 56 such secondaries in 1967-1970, was 4.47 percent. The apparent total cost to an initiating block trade seller, however, would have been approximately 3.4 percent (1 percent in the prior 20 days, 1.8 percent on the trading day, and 0.6 percent commission) plus or minus the movement in the market during the 21 day period.

15

5. Has the Volume of Trading in Christiana Increased Since the Announcement of the Possible Merger and if So, Is This Evidence of Pressure on the Du Pont Family to Sell?

Compared to the average weekly volume of trading in the six months prior to the announcement of the possibility of a merger, trading increased significantly in the last six months of 1974 and the first six months of 1975.

Volume of trading in Christiana

Dates	*Weekly volume in number of shares*	
	Average	*Median*
Nov. 1, 1971-Apr. 28, 1972 (the base period)	5,067	5,000
May 1-Oct. 27, 1972 (six months after announcement)	5,885	4,450
Jan. 1-Jun. 29, 1973	6,173	4,700
Jul. 2-Dec. 28, 1973	8,812	7,950
Dec. 31, 1973-Jun. 28, 1974	5,581	5,000
Jul. 1-Dec. 27, 1974	11,735	9,150*
Dec. 30, 1974-Jun. 27, 1975	16,531	13,950*

* indicates statistically significantly different median from the base period.

Source: Derived from Applicants' Joint Exhibit 1B, Exhibit 8, Applicants' Joint Exhibit 7 (Morgan Stanley), and *Daily Stock Price Record: OTC Stocks* (Standard and Poor's Corporation, 1973-1975).

16

The 26 weekly volumes for each six month period in the table above were compared to the 26 weekly volumes in the six-month period preceding the announcement (the base period). The purpose of each comparison was to test whether the weekly volumes for each period could have been drawn from the same population. The test is conducted by arranging the weekly volumes in size order and counting the number of times that volumes from each period are adjacent to one another. For example, the first few entries of the comparison between the base period and the May-October 1972 period are as follows:

base period volumes	*May-Oct. 1972 volumes*
	18,300
	17,600
	10,800 *
10,300 *	
	9,900 *
9,400 *	
	9,300 *
9,100	
8,900	
7,800 *	

The asterisks mark the end of each group of volumes from the same period. Six groups, or "runs", are shown above.

17

Tabulations of the probability of observing various numbers of runs, given the number of total observations, ($52 = 26 \times 2$) in this case, have been compiled by Frieda S. Swed and C. Eisenhart, "Tables for Testing Randomness of Grouping in a Sequence of Alternatives," *Annals of Mathematical Statistics*, vol. 14, (1943) pp. 66-87.

Based on those tabulations, the probability that the weekly volumes of trading in the last six months of 1974 and first six months of 1975 were drawn from the same

population as the weekly volumes in the base period is substantially less than 1 in 200. In addition, there is only a 1 in 40 chance that volumes in the first six months of 1973 are drawn from the same population as volumes in the base period.

The differences in trading volumes all occur in periods beyond the record. If the question is confined to the period covered by the record, the answer is that the weekly volume of trading did not change significantly after the announcement of the proposed merger.

The subject of trading in Christiana shares is covered in the testimony of Mr. Charles C. Townsend, Jr., A. 207-211. He is of the opinion that the volume of trading increased, but not so much as to lead him "to the conclusion that a significant body of Christiana stockholders are so oriented toward profit that they would take advantage of a similar opportunity." (A. 210). In addition, Mr. Midgley stated, ". . . and also from looking at the trading activity after the announcement of the exploration of this transaction, that the Christiana stockholder did not seem to be trading-oriented; he was not an in-and-out kind of investor." (A. 354).

18

Finally, there were relatively few insider transactions reported. The March 1974 disposal of 49,400 shares presumably involved some non-market transfers, because only 34,800 were reported as traded that month.

	no. of shares	
	disposals	*acquisitions*
July 1972	600	
Dec. 1973	300	
Mar. 1974	49,400	
Apr. 1974		7,436
Nov. 1974	10,080	
Jun. 1975	200	

Source: *Daily Stock Price Record: OTC Stocks* (Standard and Poor's Corporation, 1973-1975).

19

6. What Are the Discounts From Net Asset Value at Which Christiana Common Stock Has Sold Between 1967 and April, 1972, Excluding Dates for the Period of the Hercules Co. Exchange Offer?

	Discount from net asset value 1967-1972 (Percent)					
At end of Month	*1967*	*1968*	*1969*	*1970*	*1971*	*1972*
January		17.0	17.7	18.6	29.4	25.2
February		15.6	18.2	23.8	23.9	27.0
March		18.7	20.9	18.6	21.9	27.3
April	10.5	16.8	21.6	20.3	25.6	23.5
May	9.7	19.6	20.0	30.3	24.9	
June	13.5	18.7	20.0	21.4	22.0	
July	13.5	15.3	18.9	22.7	25.3	
August	15.0	19.4	18.6	23.0	24.9	
September	13.7	18.2	17.8	22.5	25.3	
October	13.1	16.9	21.1	23.6	25.6	
November	14.9	18.2	20.7	24.5	20.4	
December	15.8	17.3	20.6	26.7	24.5	

Source: Applicants' Joint Exhibit 1B, Exhibit 7 (Morgan Stanley) and *Moody's Bank and Finance Manual, 1973.*

20

7. Analyze the Numbers of Shares That Will Theoretically Be Available for Sale Under the Provisions of the Last Paragraph of Page 3 of Amendment No. 6 to the Application for Approval of the Merger.

If the proposed merger is consummated on the present terms, between 9.2 and 9.9 million Du Pont shares to be issued would be subject to restrictions. The number of these shares available for sale depends on the wishes of the holders, the ability of the market to absorb the shares, and the terms of the restrictions. Consequently there is no single-numbered answer to the question raised.

Each restriction is analyzed in terms of its implications for numbers of shares, and a final table relates these

numbers to the total outstanding shares of Du Pont and to the volume of shares traded in 1972.

The above-mentioned paragraph of Amendment 6 provides for three situations in which restricted shares may be sold:

a. ". . . during the months of April and October of each year in any lawful manner other than firm commitment underwritten offering."

Mr. L. E. Grimes, Assistant Treasurer of Du Pont testified that:

"It would be my expectation that the sales made in the April and October registrations in the main would be made through normal stock exchange channels." (A. 411)

21

Two kinds of trading are possible. One is through the ordinary course of the auction market, the other is through a block trade in which the selling broker searches and negotiates for a matching interest on the other side of the market. The volume of Du Pont shares traded on the New York Stock Exchange is shown in Applicants' Joint Exhibit 1B, Exhibit 7, and in Applicants' Joint Exhibit 7 (both Morgan Stanley). The volumes recorded include both ordinary and block trade transactions.

As an illustration of the volumes involved, in the first six months of 1972, the median daily volume of shares sold was 12,000. Almost half of all the daily volumes were between 10,000 and 20,000 shares. However, three days between February 22 and 28, 1972 showed volumes of 109,300, 115,700, and 125,600 shares. These data give some idea of the usual size of the market and of its flexibility. Furthermore, block trades over $5 million are relatively infrequent, based on data in the *Institutional In-*

vestor Study Report of the S. E. C. At an average price of $165 in the first six months of 1972, $5 million of Du Pont stock would be approximately 30,000 shares. Total daily volume exceeded 30,000 on ten percent of the trading days in the first six months of 1972.

The relevance of these data is that the market has shown the capacity to handle occasional very large volumes, such as 100,000 shares, and appears flexible between 10,000 and 20,000 shares. Consequently, these data may give some indication of the volume of shares that could be marketed under situation 1.

22

b. ". . . at one other time during each year in a firm commitment underwritten offering of at least $25 million in then current market value of such shares."

At an average price of $165 in the first six months of 1972, $25 million of Du Pont stock would approximate 153,000 shares. However, secondary offerings can be much larger than $25 million. In 1972, the six largest secondary offerings of industrial corporations ranged between $90.5 million (PPG Industries) and $239.8 million (Gulf Oil Corporation) according to Du Pont Exhibit 2 (First Boston Corp.). This range could imply that between 548,000 and 1,453,000 shares of Du Pont could be distributed in a secondary offering.

c. ". . . 'brokers' transactions' . . . may not exceed, for any person in any six-month period, approximately one week's reported trading volume in Du Pont common stock."

Weekly reported trading volume averaged 86,792 shares in the first six months of 1972. In Mr. Grimes' testimony, he estimates that this provision could mean a vol-

ume of 50,000 to 60,000 shares in a six-month period. He also indicated that transactions would have to be conducted separately by each seller; any acting in concert would probably result in the provision applying to the total sales by all sellers involved.

The following table relates the volumes of shares mentioned above to the outstanding shares of Du Pont and to the annual volume of shares traded in 1972.

23

Number of shares	*As percent of:* *Outstanding shares of Du Pont (47,445,810)*	*Annual volume of shares traded, 1972 (3,945,100)*
10,000	0.02	0.25
20,000	0.04	0.51
100,000	0.21	2.53
153,000	0.32	3.88
548,000	1.16	13.89
1,453,000	3.06	36.83
86,792	0.18	2.20

Of the above-listed numbers of shares, those arising out of a secondary offering are larger, as a percentage of outstanding shares, than those referred to in the testimony from the *General Motors* relief proceedings included in the Joint Appendix. That testimony is summarized in Mr. Murtaugh's Brief, p. 63, ". . . the market impact on General Motors would be 15% from a program of selling 0.7% of General Motors for ten years (postponable in bad years)."

For the remaining numbers of shares, the price impacts are covered in the answer to question 4 concerning trades of large blocks of stock.

24

8. What Is the Federal Income Tax Basis to Present Holders of Christiana Common Stock?

Christiana Exhibit No. 4 (A. 765) presents data on this question, summarized below.

Basis	*No. of shares* [a]	*Percent of total* [a]	*Percent of subtotal*
$ 0	2.9 mm	25.1%	35.7%
$ 0.01-25.00	3.1	26.6	37.8
$25.01-50.00	0.7	6.4	9.1
$50.01-100.00	0.8	7.3	10.3
$100.01-150.00	0.2	2.0	2.8
over $150	0.4	3.0	4.3
	8.2	70.3	100.0
Held by tax-exempt organizations	1.3	11.0	
No information available	2.2	18.7	
Total shares outstanding	11.7	100.0	

a. Items do not add to totals because of rounding.

This information is broadly consistent with that used in Division's Exhibit 2A (Dechert Price and Rhoads). In that Exhibit, 458,240 shares are assumed to have a very high basis (greater than $150) whereas the Christiana Exhibit shows only 350,275 shares with a basis greater than $150.

25

9. What Literature Is There on the Relevance of Book Value as a Determinant of Value?

"*Significance of Book Value.* In industrial common-stock analysis, book value is seldom regarded as an im-

portant determinant of investment value, largely for the reason that it usually bears little relationship to the earning power of the company. Goodwill, for example, or the value of a trade name, may be carried at a negligible figure in the balance sheet and yet may be a major factor in the competitive position and consequently in the earning ability of a manufacturing concern."

Graham, Dodd and Cottle, *Security Analysis, Principles and Technique,* (McGraw-Hill) pp. 596, 4th edition.

26

10. Why Is the Capital Gain Tax Rate Shown at 30 Percent in Several Places?

The references to a 30 percent capital gain tax rate are in situations where a corporate capital gain is being discussed. For example, Mr. Harter refers to a 30 percent tax when he discusses the capital gains tax liability of Christiana. (A. 377):

". . . the Du Pont common stock owned by Christiana had a market value of well over $2 billion, and a tax cost basis of $74, $75 million, the balance being the unrealized appreciation subject to tax. At a 30 percent tax rate, the capital gains tax on that appreciation would be equivalent to about 29 percent of the total market value of the securities held."

The Tax Reform Act of 1969 raised the capital gains tax rate for corporations from 25 to 30 percent, with a phase-in period for 1970 and 1971. Consequently any discussion of a capital gains tax for a corporation for 1972 or later should refer to a 30 percent rate.

27

11. Analyze the Concepts of "Dispersal of Stock" and "Control of Management" Presented in the Testimony of Messrs. McCoy and Shapiro and in the Findings and Opinion of the Commission.

1.11 *Relevant Quotations.*

Mr. Shapiro testified that the dispersal of a block of 28 percent of du Pont stock in the hands of Christiana appealed to him "as the central consideration from the du Pont standpoint" (A. 452). His reason is that, "from my standpoint the critical consideration for the future of the du Pont company . . . is that there not be a block of 28 percent of du Pont shares in hands of people who have no familiarity with the chemical business and with the du Pont Company in its detailed operations. And it is the elimination of that kind of an uncertainty for the future which seems to me so overbearing in importance that the merger is the greatest news that I can think of for the du Pont Company." (A. 453).

Later, Mr. Shapiro stated, "On the other hand, one could foresee that there will be fine young people with zero interest in the chemical business, the chemical industry. There may be some who have no financial acumen. There may be some who get into financial difficulty. There may be some who are tempted to turn a fast buck and sell their shares to someone who wants to get control of . . . Christiana by getting a significant block of Christiana shares." (A527-528).

Mr. McCoy testified that the proposed merger was "a solution of what I thought was a long-term Christiana problem . . . I had in mind

28

only in a very general way the long-term composition of the board of the du Pont Company. And knowing the difficulties of obtaining the kind of board that a major corporation needs these days, I was concerned that what would be the position way out with respect to the Christiana group. And this seemed to me to present the possible solution to that problem, if it developed to be a problem. I had no way to tell . . . the only way that it could be a solution would be if the block itself were broken up so that it was not there as a target for somebody to go after or would not fall into the hands somewhere down the line of either a group of people who would be unable to discharge the responsibility that went with it or might have serious differences of opinions and lead to factional representation." (A576-577).

The S. E. C. found these views puzzling. It drew attention to the applicants' reiteration that the proposed merger would not lead to a large number of Du Pont shares coming to the market, and concluded that "the dispersal will be formal, not substantive" (A. 28). On the issue of possible long-term adverse consequences from the Christiana holdings, the S. E. C. states, "The argument rests on the possibility of a future clash between the people then in control of Christiana and the people then managing Du Pont. It assumes that in this hypothetical situation the Du Pont managers will be the "good guys" and the Christiana control group the "bad guys". The argument seems far-fetched and rests on premises we consider unacceptable. Christiana's extinction may well make it somewhat easier for Du Pont's managers to maintain themselves in office.

29

We, however, cannot presume that this will necessarily be in the Du Pont stockholders' interest." (A. 29)

11.2 *Dispersal of Stock*

The concept of dispersal has application at two levels in this case. First, dispersal can refer to the distribution of a block of shares by sale in the market place to a large number of buyers. Second, dispersal can refer to the destruction of a block of votes by spreading the votes over a number of voters. Distribution in the market place and destruction of a block of votes occur simultaneously in situations such as secondary offerings.

In the present case, the two dispersals are separable. If the merger is consummated, existing Christiana shares will be exchanged for new Du Pont Company shares. This exchange will destroy the block of votes, because the individual Christiana stockholders will be able to exercise directly the votes of the Du Pont shares they receive. The exchange does not involve a market transaction, and thus dispersal through sale in the market does not apply at this point.

Dispersal through market transactions may occur after the exchange. The possibility and probability of such market transactions are discussed throughout the record, and such transactions would further disperse ownership and votes. However, the initial dispersal of votes would have been achieved in the exchange of stocks.

Thus, a real dispersal of a block of votes can occur in the present situation without requiring a simultaneous market transaction.

30

When the S. E. C. concluded that the dispersal would be formal, it was considering market dispersal rather than

vote dispersal, whereas Messrs. McCoy and Shapiro were considering vote dispersal.

11.3 *Control of management*

The record does not provide a clear answer on the question of whether Christiana controls Du Pont. Three pieces of evidence favor control. First, there is a history of control in previous years, including the time when Christiana was incorporated. Second, the Investment Company Act of 1940 presumes that any block greater than 25 percent constitutes control. Christiana owns 28.3 percent of Du Pont stock. Third, five of Du Pont's directors are also directors of Christiana, and eight of Du Pont's directors own more Christiana stock than Du Pont stock.

On the other hand, both Messrs. McCoy and Shapiro testified that Christiana does not control Du Pont. The draft Proxy Statement states: "Christiana and Du Pont have consistently denied in prior proxy statements and otherwise that Du Pont is controlled by Christiana." (Du Pont Exhibit 5, page 1).

This uncertainty about whether Christiana controls Du Pont affects part of Mr. Shapiro's concern about future directors of Christiana. If Christiana does not control Du Pont, then future Christiana directors' possible lack of understanding of the chemical industry is irrelevant because Christiana cannot force Du Pont to do something it doesn't want to do. Consequently, Christiana's holding of Du Pont stock is not a disadvantage to other Du Pont stockholders.

31

If, however, Christiana *does* control Du Pont, then the future abilities of Christiana directors are of concern to

Du Pont stockholders. This alternative contradicts the testimony of Messrs. McCoy and Shapiro on the question of control.

While there is a lack of clarity as to present control, the record shows considerable clearness as to the potential for control. Both Messrs. McCoy and Shapiro drew attention to the potential that a block of 28.3 percent of Du Pont stock provides. In particular, Mr. Shapiro showed that control of a block of Christiana stock provides access to control of the 28.3 percent block of Du Pont stock. The existence of Christiana provides potential for control of 28.3 percent of Du Pont stock with an investment totalling much less than the cost of buying 28.3 percent of Du Pont directly. Thus Christiana stock provides a possible route to voting control of many more Du Pont shares than an equivalent investment in Du Pont stock would provide. This voting leverage possibility is not possessed by Du Pont stockholders generally, and would be eliminated as a result of the proposed merger.

The value of this voting leverage is analyzed in Morgan Stanley's Report:

"A possible disadvantage to Christiana of a merger would be the loss of any benefits which it may derive from being the largest holder, with approximately 28.3% of the outstanding common stock, of Du Pont. It is difficult to place an economic value upon such benefits. It should be noted, however, that from time to time, blocks of shares representing control of major corporations have been sold or exchanged at premiums above the quoted market value of the shares.

32

Such a transaction might possibly take place in a merger of Christiana into a company other than Du Pont. In the case of Christiana, however, the size of the block, the fact

that it might not, under certain circumstances, represent effective control and the effect of the United States antitrust laws would appear to make such a transaction unlikely." (Applicants' Joint Exhibit 1A, pp. 6-7, Morgan Stanley).

Thus for the control issue to have economic importance, it is necessary to have a potential buyer of Christiana stock who is

a) clear of antitrust complications,

b) capable of raising the substantial funds required, (at April 28, 1972 prices, a minimum investment in fifty percent plus one of Christiana common stock implied a value of $147 times 5,855,052 shares, or 860 million dollars), and

c) able to persuade sufficient Christiana stockholders to sell (contrary to the evidence in the case that Christiana holders have no intention of selling the Du Pont stock to be issued in the proposed merger because they view themselves as long term investors in Christiana or Du Pont).

While the probability of occurrence of all of the foregoing is relatively low, an even lower probability attaches to the possibility that, in addition, the potential buyer plans a course of action detrimental to the other Du Pont stockholders. Yet it is on this low joint probability that the fears expressed by Messrs. Shapiro and McCoy rest.

33

12. Analyze the Estimates of Taxes in a Section 333 Liquidation in Terms of the Discount Applicable to Christiana's Net Asset Value.

Based on May 31, 1972 market prices, Morgan Stanley presents an analysis of the relationship between Christiana's adjusted net asset value in a merger with Du

Pont and its adjusted net asset value in a section 333 liquidation. This is in Division's Exhibit 3, pp. 12-18. It is based on the June 20, 1972 letter from Dechert Price and Rhoads regarding the taxes payable by Christiana stockholders in a section 333 liquidation (Division's Exhibit 2A).

	Merger	*Liquidation*
Asset value before adjustments	$2,316,697,803	$2,316,697,803
less estimated Federal capital gains taxes payable on sale of News-Journal	7,021,168	7,021,168
less estimated expenses and capital gains tax payable on sale of Wilmington Trust shares	661,608	
less expenses of merger or liquidation	1,500,000	400,000
less tax payable by Christiana common stockholders on accumulated earnings and profits		69,513,106
Adjusted net Asset Value	2,307,515,027	2,239,763,529
less Christiana Preferred Stock at $120 in merger and $100 in liquidation	12,780,000	10,650,000
Adjusted Net Asset Value available to Christiana common stockholders	2,294,735,027	2,229,113,529

34

Morgan Stanley concludes that the liquidation is equivalent to a 2.84 percent discount from Adjusted Net Asset Value. This is based on the observation that in a merger, the preferred stock will receive $120 per share, or $12,780,000 in total. When this is added to the amount realizable by the common stockholders from a liquidation,

$2,229,113,529, the total is $2,241,893,529. This last amount is 2.84 percent less than the Adjusted Net Asset Value in a merger, $2,307,515,027.

On July 5, 1972, Dechert Price and Rhoads reported that "it will not be possible to agree upon an earnings and profits figure for Christiana. Furthermore, if all the legal questions discussed were resolved against Christiana, the result would be an earnings and profits figure vastly in excess of $85.8 million." Consequently, the firm advised that a section 333 liquidation was not a viable alternative for Christiana.

Later, Mr. L. E. Grimes testified that the taxes payable by Christiana stockholders could be in the range of two to four hundred million dollars. He qualified these numbers by explaining that they were not the product of discussions with anybody, but were his own thoughts (A. 420). Mr. Shapiro qualified Mr. Grimes' estimate further.

"A. I think if I remember his testimony he said he just reached out into the air and grabbed a number. At least I don't know of any solid factual basis for arriving at a calculation.

Q. Was such a potential figure discussed at all ?

A. Not that I know of.

Q. Not by you?

A. Not by me.

35

Q. Not discussed with you?

A. And not discussed with me." (A 544-545).

Following the format of the tabulation above, if taxes of 200 to 400 million dollars were to result from a section 333 liquidation, they would be the equivalent of an 8.5 percent or 17.2 percent discount respectively from Adjusted Net Asset Value in a merger situation. The calculations follow:

Adjusted Net Asset Value in a Liquidation	$2,239,763,529
Replace original tax estimate by estimate of $200,000,000.	69,513,106+ 200,000,000—
Revised Adjusted Net Asset Value	2,109,276,635
less preferred stock at $100	10,650,000—
Adjusted Net Asset Value available to Christiana common stockholders in a Section 333 liquidation	2,098,626,635
add preferred stock at $120 in a merger	12,780,000+
total	2,111,406,635
compared to Adjusted Net Asset Value in a merger of	2,307,515,027
is the equivalent of a discount of	8.5%
If taxes are increased from $200 to 400 million, then the total (above) declines to	1,911,406,635
which is the equivalent of a discount of	17.2%

36

13. What Was the Valuation of the Christiana Stock, as a Percentage of Net Asset Value, in the Cases of *Paulina du Pont Dean v. Commissioner*, 19 TCM 281 (1960), and *Mary A. B. du Pont, et al., Executors v. Commissioner of Internal Revenue*, 38 US Bd. Tax Appeals 926 (1938)?

13.1 In the Paulina du Pont Dean case, the court applied three cumulative discounts to arrive at the value of common stock of Nemours Corporation. Nemours owned stock in Delaware Realty and Investment Company, which owned stock in Christiana Securities Company, E. I. du Pont de Nemours and Company and Hercules Powder Company. Christiana owned stock in E. I. du Pont de

Nemours and Company, General Motors Corporation, Wilmington Trust Company and the News-Journal Company.

The court valued Christiana at 79.42 percent of net asset value; Delaware Realty at 86 percent of its net asset value; and Nemours at 80 percent of its net asset value, for a cumulative discount of 54.64 percent. The percentages for Delaware Realty and Nemours reflected their earnings, dividends, taxes, and factors relating to the control of Nemours.

For Christiana, the court stated:

". . . we can discern no reason for using any figure as the value of Christiana . . . other than the market or the bid or asked prices . . . The mean between the bid and asked prices of Christiana common reflects a 20.58% discount from net asset value of that security and it is considered unrealistic to assume a liquidation by sale of the assets." (p. 287).

37

13.2 In the Mary A. B. du Pont case, the court valued Christiana at 56.8 percent of net asset value (a 43.2 percent discount). Some of the considerations underlying this conclusion are specified at pages 940-943, and are summarized below.

(1) During 1927, the market price of Du Pont doubled.

(2) In 1927 Du Pont relied heavily on its holding in General Motors for its earnings. In that year, General Motors' earnings reflected the fact that its principal competitor, Ford, was practically out of production.

(3) Christiana could not have sold its Du Pont stock without affecting the market price of Du Pont.

(4) Christiana would have income tax liabilities if it sold its Du Pont stock, so that a shareholder could not receive net asset value as the result of such a sale.

(5) There was no market for Christiana common stock.

38

14. How Has Du Pont Been Affected by the Investment Company Act of 1940?

Because of its affiliation with Christiana, Du Pont is required to file applications for exemption when it proposes to engage in certain kinds of transactions. The SEC stated that its files "show that there have been approximately 50 applications" since 1940 (footnote 41, A. 29). Du Pont's Treasury Division summarized the 15 applications filed in the years 1967-1972 (Division's Exhibit 1, Appendix A, Attachment 3). Thus there appears to have been an increase in such applications in recent years.

Du Pont estimates that the total time spent on 1940 Act matters was "the equivalent of 1½-2 employees on a full-time basis" on the average. Mr. McCoy testified that he hoped the delays caused by the applications had not cost Du Pont any profits (A 610). In three of the last 15 applications, the delay is noted as having been disadvantageous to Du Pont.

On balance, Du Pont has encountered some delays and incurred some costs in complying with the Act. These are small relative to the size of Du Pont.

39

15. Estimate the Amount Realizable by a Hypothetical Christiana Common Stockholder Who Sells Stock on April 28, 1972, or Receives Shares of Du Pont Representing 97.5 Percent or 87.9 Percent of Net Asset Value in a Merger and Sells the Du Pont Shares at April 28, 1972 Prices, Assuming a 35 Percent Capital Gains Tax Rate and a $25 Per Share Cost for Tax Purposes.

	Christiana common stock	*Du Pont common stock for specified percent of net asset value in a merger (a)* 97.5%	87.9%
(1) Sale of stock (b)	$147.00	$188.94	$170.27
(2) less tax cost	25.00	25.00	25.00
(3) capital gain	122.00	163.94	145.27
(4) tax at 35 percent	42.70	57.38	50.84
(5) Amount realizable (1-4)	104.30	131.56	119.43

a. 97.5 percent of net asset value implies an exchange ratio of 1.123 shares of Du Pont per share of Christiana. 87.9 percent implies 1.012 shares (see earlier tabulations).

b. Christiana common at closing bid price April 28, 1972. Du Pont common at closing price of $168.25 on April 28, 1975, times the applicable exchange ratio. No allowance for commissions on sale of stock.

40

16. Evaluate the Advantages and Disadvantages of the Proposed Merger to the Common Stockholders of Christiana and Du Pont, Following the Format of Exhibit 5 of Kidder, Peabody's Report (Assuming Net Asset Value Exchange).

Kidder, Peabody's listing assumes a net asset value exchange. An exchange based on a discount from net asset value is discussed toward the end of this answer.

CHRISTIANA

Advantages

1. "Realization of underlying asset value (32% premium over market)."

Christiana stockholders would not realize asset value in the sense of obtaining cash as a result of the proposed merger. They would receive Du Pont stock equal in value to the asset value. Realizing cash by the sale of Du Pont stock received in a merger would involve transactions costs for all stockholders, and substantial tax liabilities for most stockholders.

2. "Elimination of Federal tax on Du Pont dividends."

3. "Elimination of Christiana operating expenses."

The demise of Christiana would remove both the Federal tax of 7.2 percent on the dividends received by Christiana and Christiana's operating expenses (approximately $300,000 in 1971).

4. "Realize a more liquid listed holding."

Du Pont stock is listed on the New York Stock Exchange whereas Christiana is traded in the over-the-counter market. The average weekly dollar volume of Du Pont stock was 23 times that for Christiana in the first six months of 1972 ($14.3 million for Du Pont compared

41

to $0.6 million for Christiana). Thus the market for Du Pont is more liquid than the market for Christiana.

5. "59% increase in EPS (largely from accounting treatment)."

Dividends paid by Du Pont are the bulk of Christiana's earnings. If Du Pont shares are received by

Christiana stockholders in a merger, then the earnings reported would be those of Du Pont. Because Du Pont retains almost one-third of its earnings, reported earnings per share increase sharply in a proforma comparison with Christiana earnings.

The parenthetical remark implies that this increase is the result of accounting conventions. Such conventions reflect the reality that Christiana and Du Pont are separate companies, and Christiana cannot include the annual undistributed earnings of Du Pont as though they were undistributed earnings of Christiana. However, the earnings per share increase is not a major advantage. This is because the earnings per share increase is unlikely to be accompanied by a similar dividend increase, given Du Pont's long run policy of reinvesting part of its annual earnings in the business.

6. "10% increase in dividends."

Kidder, Peabody assumes that Du Pont maintains its $5.00 per share dividend, although an exchange at net asset value requires the issue of additional shares with a consequent increase in the cash paid out in dividends each year.

42

7. "Elimination of potential conflict of interest situation."

Conflict of interest situations arise whenever Christiana enters negotiations with Du Pont, such as in the present merger situation. However, this item is not discussed in the Kidder, Peabody report. The nearest reference is a brief mention of interlocking directorships and stockholder positions on page 26 of Kidder, Peabody's report. The demise of Christiana would eliminate the interlocking directorships, and the stockholder positions would

all be in Du Pont stock. However, it is difficult to see how the elimination of the directorships and lack of direct holding in Du Pont could be an advantage to Christiana stockholders, because it is through these arrangements that control of Du Pont is possible. Loss of this control is cited as disadvantage number 1. Finally, a merger is not the only way to remove any potential conflict of interest situations.

8. "Participate directly in Du Pont management."

This is true if participation in management means that former Christiana stockholders would be able to vote directly at meetings of Du Pont stockholders. However, there is no reason to anticipate that former Christiana stockholders would play a greater role than now in the daily management of Du Pont.

Disadvantages

1. "Loss of 28% 'control' block of Du Pont stock."

Control is discussed in the answer to question 11, above. The conclusion is that there is a control element in Christiana's holding of Du Pont stock, and the proposed merger would destroy this.

43

2. "59% dilution of net asset value."

This is based on a comparison of two different things, the net asset value of Christiana and the book value of Du Pont. Net asset value of Christiana is based on the market value of its holdings. Book value of Du Pont is based on historic cost. No market value of assets is shown for Du Pont in Kidder, Peabody's Exhibit 3. Consequently, there is no basis in the Exhibit for comparing market value

of holdings on pre-merger and proforma bases. However, Exhibit 3 lists the proforma Christiana book value and net asset value per share as the same, despite their conceptual differences. The 59 percent figure is based on this confusion of concepts.

3. "Minor loss of diversification from newspaper and trust company."

Christiana is a non-diversified investment company, so any diversification provided by the newspaper and the trust company holdings are inconsequential.

4. "Increased estate taxes."

In the cases cited in question 13, various courts have valued Christiana stock at substantial discounts from its net asset value. To the extent that these discounts have been based on a market price for Christiana which is at a discount from net asset value, then this reason will disappear with a merger. There is no evidence in the record of how frequently estate taxes are incurred by Christiana holders, nor of the tax rates applicable. Consequently, this disadvantage cannot be estimated in monetary terms.

44

5. "Expenses of merger."

DU PONT

Advantages

1. "Controlled elimination of 28% 'control' block of stock (Potential market pressure and/or tender offers)."

Dispersal of the votes would be accomplished by a merger. As discussed in the Answer to question 11, such vote dispersal removes the voting leverage inherent in

shares of Christiana and is to the advantage of non-Christiana holders of Du Pont.

The matters in parentheses are more properly listed as a disadvantage to Du Pont. To the extent that a merger results in secondary offerings or block sales of Du Pont, there are likely to be adverse price effects on Du Pont stock. The answers to questions 4 and 7 refer to literature indicating that the adverse price effects of block sales are temporary but that the effects of large and frequent secondaries may be longer-lasting. While Amendment 6 to the Application places restrictions on sales of Du Pont stock receivable in the merger, the extent of market pressure is also contingent on the future motivations of Christiana stockholders. The record indicates that a large proportion of their shares are held with low tax bases, thus inhibiting sales, and reducing the potential for market pressure.

2. "Elimination of affiliate status under the 1940 act."

This minor advantage is discussed in the answer to question 14.

45

3. "28% increase in shares available to public for trading."

Approximately 70 to 75 percent of the Du Pont stock receivable by Christiana stockholders in a merger would be restricted. (see answer to question 7). Only the balance, a 7 to 8.4 percent increase, fits the description of this item, and it is advantageous only so long as it does not generate market pressure, as discussed above under Du Pont advantage number one.

4. "Potential increase in earnings on incremental shares."

This is an advantage to both Christiana and Du Pont. The potential increase in earnings arises from the redeployment of some of Christiana's assets. Depending on the

size of the earnings increase, and the number of additional shares issued in a merger, the effect on Du Pont's earnings per share could be favorable, neutral or unfavorable. Since Christiana stockholders would receive Du Pont shares, they would share in whatever effects were realized.

5. "Accomplishment of an action apparently in the public interest."

If it is assumed that Christiana no longer serves a useful purpose, then the merger eliminates an unnecessary corporation. This is a minor advantage to the shareholders of both companies.

6. "Elimination of potential conflict of interest situation."

See the evaluation of Christiana advantage number 7, above. It is not necessary to have a merger to remove any conflict of interest situations for directors or officers of Du Pont who are directors, officers, or stockholders in Christiana.

46

Disadvantages.

1. "Minor decrease in book value."

See the answer to question 9 on the irrelevancy of book value.

2. "Expenses of the merger."

The foregoing listing of advantages and disadvantages assumed a net asset value exchange. To the extent that the exchange is based on a discount from net asset value, the following effects should be noted.

a. Christiana advantages 1, 5, and 6 would be reduced proportionately.

b. Christiana disadvantage 4 would be diminished proportionately.

c. The disadvantageous aspects of Du Pont advantages 1, 3, and 4 would be diminished proportionately.

The list omits some factors.

a. Christiana advantage: Elimination of any future potential capital gains tax liability by Christiana.

As indicated in the answer to question 10, Mr. Harter testified that "about 29 percent of the total market value of the securities held" by Christiana would be needed to pay the capital gains tax on the appreciation of the securities. As long as Christiana retains the securities, there is no liability under existing law. However, any sale would result in a tax liability to Christiana. A merger would remove this possibility.

b. Christiana advantage: No discount applied to any proceeds of the Christiana claim for a Federal Tax refund.

Under the terms of the proposed merger, the tax claim and

47

related cash reserved for expenses would become the property of Du Pont. Eventually, Du Pont shares approximating either the net proceeds of the claim or its fair value five years after the merger would be distributed to former Christiana common stockholders. This arrangement makes no provision for the application of a discount to this small part of Christiana's assets, and thus is a minor advantage to Christiana.

48

EFFECTS UPON CHRISTIANA COMMON STOCK OF VARIOUS DISCOUNT VALUES AND DIVIDEND POLICIES.*

	Merger at Specified Percentage of Adjusted Net Asset Value (a)			
	100%	*97.5%*	*87.9% (h)*	*76.9% (i)*
Exchange ratio, number of DuPont common for one Christiana (g)	1.152	1.123	1.012	0.884
Earnings per share (b)	$8.42	$8.26	$7.65	$6.91
Percent change from 1971 (c)	+59.5%	+56.4%	+44.9%	+30.9%
Dividends per share, 68.6 percent payout (d, e)	$5.78	$5.67	$5.25	$4.74
Percent change from 1971 (c)	+10.0%	+8.0%	0%	—9.7%
Dividends per share, 74 percent payout (d, e)	$6.23	$6.11	$5.66	$5.12
Percent change from 1971	+18.7%	+16.4%	+7.8%	—2.5%
Premium, April 28, 1972 (f)				
Percent	+31.9%	+28.5%	+15.8%	+21.7%
Total	$548,278,380	$491,208,370	$272,045,010	$20,954,995
Premium, July 17, 1972 (f)				
Percent	+13.1%	+10.3%	—0.6%	—13.2%
Total	$257,634,440	$201,836,500	—$12,442,218	—$257,935,970

* See assumptions on following pages, referenced by letters (a) through (i) on this table.

49

EFFECTS UPON DUPONT COMMON STOCK OF VARIOUS DISCOUNT VALUES AND DIVIDEND POLICIES *

	Merger at Specified Percentage of Adjusted Net Asset Value (a)			
	100%	*97.5%*	*87.9% (h)*	*76.9% (i)*
Earnings per share (b)	$7.31	$7.36	$7.56	$7.82
Percent change from 1971 (c)	—0.3%	+0.4%	+3.1%	+6.7%
Dividends per share, 68.6 percent payout (d, e)	$5.01	$5.05	$5.19	$5.36
Percent change from 1971 (c)	+0.2%	+1.0%	+3.8%	+7.2%
Dividends per share, 74 percent payout (d, e)	$5.41	$5.44	$5.59	$5.79
Percent change from 1971 (c)	+8.2%	+8.8%	+11.8%	+15.8%
Net number of DuPont common to be issued (retired)	110,696	(188,501)	(1,491,108)	(2,983,470)
Market value of net shares (j)				
April 28, 1972	$18,624,602	($31,715,293)	($250,878,920)	($501,968,820)
July 17, 1972	$18,209,492	($31,008,414)	($245,287,260)	($490,780,810)

* See assumptions on following pages, referenced by letters (a) through (j) on this table.

50

Assumptions

A. Adjusted net asset value as shown in DuPont Exhibit No. 5, pp. 6 and 7. Christiana's holding of DuPont common stock is valued at $163.875, the average of the closing prices on the New York Stock Exchange, July 10 through 14, 1972. This value is also used to compute the number of DuPont shares to be issued to preferred and common stockholders of Christiana.

B. Earnings per share are based on net income of DuPont after the merger, calculated at $347.6 million:

Actual 1971 net income earned on common stock		$346,500,000
Earnings of 4.46 percent on Christiana assets to be redeployed by DuPont:		
Wilmington Trust Co. share	$ 2,699,424	
News-Journal Co. share	24,260,000	
Cash, less current liabilities	5,981,367	
Claim for tax refund	11,723,013	
	44,663,804	
Less adjustment for handling tax refund claim	12,723,013	
Less expenses and taxes on sale of assets	7,619,606	
Less merger expenses	1,500,000	
	$22,821,185	1,017,825
Preferred dividends saved by retiring Christiana's holding of 16,256 DuPont preferred shares, 16,256 × $4.50		73,152
		$347,590,977

51

Values of Christiana assets are from DuPont Exhibit No. 5, pp. 4 and 6. The full amount of merger expenses is shown because these reduce the total extra assets available to DuPont. (4.46 percent is shown in Division's Exhibit 12, Exhibit 4—Kidder, Peabody).

C. Percentage changes in earnings and dividends per share are based on Christiana's 1971 earnings per share of $5.28 and dividend per share of $5.25, and DuPont's earnings per share of $7.33 and dividend of $5.00.

D. Payout ratios for DuPont of 68.6 percent and 74 percent are based on data for the previous five years. 68.6 percent is the average of the three lowest ratios; 74 percent approximates the highest ratio.

	1967	*1968*	*1969*	*1970*	*1971*
Payout ratio (%)	74.3	68.8	68.9	72.9	68.2

These data are computed from DuPont Exhibit No. 5, pp. C-3.

E. In these tables, dividends are maintained at specified proportions of earnings. These dividends change as earnings vary with differing discounts.

F. The computation of the premium, or increase in market value of Christiana shares, is based on the closing market price for DuPont and the closing bid price for Christiana on April 28, 1972, the day that merger discussions were announced, and July 17, 1972, the day the proposed merger terms were announced.

52

G. Shown to three decimal places; calculations done with six or more decimal places. Formula for computation:

$$XR = \frac{\frac{[ANAV\ (1\text{-}d)] - 120CP}{DCSP}}{CCS}$$

where ANAV = adjusted net asset value ($2,223,425,827)
CCS = number of shares outstanding of Christiana common stock (11,710,103)
CP = number of shares outstanding of Christiana preferred stock (106,500)
d = discount from adjusted net asset value (stated as a decimal)
DCSP = price of DuPont common stock ($163.875)
XR = exchange ratio (number of DuPont common for one Christiana).

H. 87.9 percent is shown because this is the percentage at which the dividend to Christiana common stock is the same before and after the merger.

I. 76.9 percent is shown because it portrays the effect of a 23.1 percent discount. This was the discount on April 28, 1972, based on mean market price and net asset value of Christiana (see Applicants' Joint Exhibit 1B, Exhibit 9—Morgan Stanley).

J. The market value of the net shares of DuPont to be issued or retired is computed using the closing market value for DuPont on April 28, 1972 and July 17, 1972.

OPINIONS OF THE COURT BELOW.

The majority and dissenting opinions of the Court of Appeals for the Eighth Circuit, entered January 23, 1976, are not reprinted here. They appear at page 44a of the Appendix to the Petition for a Writ of Certiorari filed on behalf of the Securities and Exchange Commission, June 26, 1976, in No. 75-1872.

JUDGMENT OF THE COURT BELOW.

The Judgment of the Court of Appeals for the Eighth Circuit, entered January 23, 1976, and the Order of the Court of Appeals, entered February 26, 1976, denying, by an equally divided court, petitions for rehearing with suggestions for rehearing en banc are not reprinted here. They appear at pages 109a and 111a of the Appendix to the Petition for a Writ of Certiorari filed on behalf of the Securities and Exchange Commission, June 26, 1976, in No. 75-1872.

SUPREME COURT OF THE UNITED STATES

—

No. 75-1870.

—

E. I. DU PONT DE NEMOURS AND COMPANY, ET AL.,

Petitioners,

v.

RICHARD J. COLLINS, JR., ET AL.

ORDER ALLOWING CERTIORARI.

Filed October 4, 1976

The petition herein for a writ of certiorari to the United States Court of Appeals for the Eighth Circuit is granted. The case is consolidated with No. 75-1872 and a total of one hour is allotted for oral argument.

SUPREME COURT OF THE UNITED STATES

—

No. 75-1872.

—

SECURITIES AND EXCHANGE COMMISSION,
Petitioner,

v.

RICHARD J. COLLINS, JR., ET AL.

———

ORDER ALLOWING CERTIORARI.

Filed October 4, 1976

The petition herein for a writ of certiorari to the United States Court of Appeals for the Eighth Circuit is granted. The case is consolidated with No. 75-1870 and a total of one hour is allotted for oral argument.